



**CANNABIS CONTROL BOARD**

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Date: February 23, 2022

To: Legislative Committee on Administrative Rules

From: Cannabis Control Board, prepared by David Scherr, General Counsel

Re: Rule Edits Responsive to Legislative Counsel Input

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Legislative Counsel has provided helpful input to the Cannabis Control Board regarding the Board's Final Proposed Rule 1 and Rule 2. In accordance with their input, the Board proposes the following edits.

Clean copies of Final Proposed Rules 1 and 2 incorporating the proposed edits are attached to this memo.

### **I. Section 1.3: Tier Structure**

The Board proposes to add the following language to the first sentence of section 1.3 of Rule 1:

The Board establishes the following tiers for cultivation, retail, and manufacturing licenses, provided that if statute is not in agreement with this section, statute will dictate the tiers and supersede this section. If statute supersedes this section, the Board will construct its application process according to statute and will provide guidance readily available to the general public plainly describing the statutorily mandated tiers.

This amendment provides for the reality that legislative and administrative processes are occurring simultaneously due to tight statutory deadlines in Act 164 (2020) that require the Board to begin processing cannabis establishment applications in April of this year. The Board is working with the legislature to align statutory and administrative language. Should any discrepancies remain between statute and Board rule, this provision recognizes the legal fact that the statute controls, and obligates the Board to provide clarity to the public about the licensing tiers as determined by the legislature.

This provision will apply to all of section 1.3, including all aspects of the cultivation, retail, and licensing tiers.

## **II. Section 2.10.1: Integrated Licensees and Manufacturing**

The Board proposes to add the following language to section 2.10.1:

All regulations in sections 2.2 through 2.9 of this rule apply to integrated license holders. When manufacturing, integrated licensees will be permitted to utilize all lawful methods of extraction.

This amendment clarifies that an integrated license allows the licensee to operate the highest level of manufacturing operation, which permits all lawful methods of extraction as provided by Rule 1.3.3(a).

## **III. Section 2.10.5(b): Integrated Licensees and Cultivation Tiers**

The Board proposes to add the following language to section 2.10.5(b):

Other than cultivation for a dispensary, the cultivator portion of an integrated license will be deemed to be in the largest cultivator tier that the Board has opened for an application acceptance period pursuant to Rules 1.3.1 and 1.10 and will be subject to the ~~plant canopy~~ cultivation limit of that tier. The relevant maximum tier will be within the method of cultivation the integrated licensee has chosen to utilize in accordance with Rule 1.3.1.

This amendment clarifies that the relevant cultivation tier limit for an integrated licensee is the tier limit that is within the method of cultivation chosen by the integrated licensee, whether that is outdoor, indoor, or mixed.

**STATE OF VERMONT  
CANNABIS CONTROL BOARD**

**RULE 1: LICENSING OF CANNABIS ESTABLISHMENTS**

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# **1. Rule 1: Licensing of Cannabis Establishments**

Not every applicable prohibition, restriction, and requirement is contained in this rule. All Cannabis Establishments must abide by the prohibitions, restrictions, and requirements of Chapter 33, Title 7 of the Vermont Statutes. Cannabis Establishments must also abide by all other applicable laws, including but not limited to worker's compensation laws and tax laws.

## **1.1 General Provisions**

### **1.1.1 Authority**

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 881, 883, 884, 901, 902, 903, Section 8 of Act 164 (2020), and other applicable law.

### **1.1.2 Scope and Purpose**

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates the licensing of Cannabis Establishments.

### **1.1.3 Definitions**

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

- (a) "Commercial bank" has the same meaning as defined in 8 V.S.A. § 11101(15).
- (b) "Employee" has the same meaning as defined in 21 V.S.A. § 481(5), provided that the applicable exceptions shall be 21 V.S.A. § 481(5)(B), (G), and (H).
- (c) "Entity" means any person, as defined in 7 V.S.A. § 861(23), that is not a natural person.
- (d) "Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.
- (e) "Greenhouse" means a structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively for, and essential to, the cultivation or maintenance of Cannabis plants and that is in use for a period of 180 days or more each calendar year.
- (f) "Home occupancy business" means a business operated on the premises of an individual's home or property where the individual is domiciled.
- (g) "Indoor cultivation" means growing Cannabis using artificial lighting.
- (h) "Interest holder" has the same meaning as defined in 11A V.S.A. § 11.01(11).
- (i) "Inventory Tracking System" means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
- (j) "Licensee" means a person who has been issued a license pursuant to this rule. A licensee does not include a person who has been issued a prequalification approval.
- (k) "Outdoor cultivation" means growing Cannabis in an expanse of open or cleared ground or in a structure that does not use artificial lighting and is not a greenhouse.
- (l) "Physical site of operations" means:

- i. A cultivator’s grow site,
  - ii. A wholesaler’s product storage facility,
  - iii. A manufacturer’s site of manufacture,
  - iv. A retailer’s store location, or
  - v. A testing laboratory’s testing facility.
- (m) “Prequalification approval” means a certification issued by the Board, in accordance with this rule, prior to a person’s approval as a licensee. A prequalification approval does not permit the recipient to operate a Cannabis Establishment.
- (n) “Social equity applicant” means either a “social equity individual applicant” or a “social equity business applicant” as those terms are defined in this rule.
- (o) “Social equity individual applicant” means an individual who is a resident of Vermont and who meets one or more of the following criteria:
- i they are a socially disadvantaged individual, as defined below,
  - ii they have been incarcerated for a cannabis-related offense, or
  - iii they have a family member who has been incarcerated for a cannabis-related offense.
    - 1 For the purposes of this definition, “family member” shall mean the following: a spouse, domestic partner (as defined in 17 V.S.A. §2414(e)(1)), child, step-child who resided with the family member when the child was a minor, minor in their guardianship, legal guardian, parent, sibling, grandparent, or grandchild.
- (p) “Social equity business applicant” means a corporation, partnership, or other business entity that meets the federal standards for Disadvantaged Business Enterprises (DBEs) as set forth in 49 C.F.R. §§ [26.69](#) and [26.71](#), except as provided in subdivision (i) of this subsection 1.1.3(p), even if the entity has not applied for any federal DBE programs. In determining whether a business applicant meets the federal standards for DBEs, the Board will consider only participants in the business who meet the definition of socially disadvantaged individual as defined by section 1.1.3(q)(i) of this rule and who are residents of Vermont.
- i The requirements of subparts 49 C.F.R. § 26.69(b)(1), (2), and (3) shall not apply to this subsection (p). The majority-interest requirement of 49 C.F.R. § 26.69(b) itself shall apply.
- (q) “Socially disadvantaged individual” is an individual who meets at least one of the following criteria:
- i They meet the criteria for social disadvantage as set forth in the following federal regulations regarding DBEs: [49 C.F.R. § 26.67\(a\)\(1\) and \(b\)\(2\)-\(3\)](#) to the extent permitted in subdivision 1.1.3(q)(i)(1) of this section, whether or not they have applied for any DBE programs, provided that no person shall be excluded from this definition because of their citizenship or immigration status.
    - 1 For the purposes of this rule, the rebuttable presumption in [49 C.F.R. § 26.67\(a\)\(1\)](#) shall be applied only to Black Americans and Hispanic Americans.
  - ii They are (1) from a community that has historically been disproportionately impacted by cannabis prohibition and (2) able to demonstrate to the Board that they were personally harmed by the disproportionate impact. In assessing this

personal harm, the Board may consider factors such as educational impacts, lost employment opportunities, or housing insecurity.

#### 1.1.4 Applicability

This rule applies to persons who engage in the transfer or sale of Cannabis or Cannabis Products, including transfers or sales related to cultivating, manufacturing, wholesaling, or retailing Cannabis or Cannabis Products, except that this rule does not apply to activities regulated by Chapters 35 and 37 of Title 7 of the Vermont statutes and by Rule 3 of the Board's rules. This rule also applies to those who provide laboratory testing services to persons who engage in the transfer or sale of Cannabis or Cannabis Products.

#### 1.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
  - (1) the day of the act or event that triggers the period shall be excluded;
  - (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
  - (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (b) A "legal holiday" means:
  - (1) any day declared a holiday by the President or Congress of the United States; and
  - (2) any day declared a holiday by the State of Vermont.

#### 1.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

### 1.2 License Application Format and Fees

#### 1.2.1 Form

Applicants are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.

#### 1.2.2 Fees

Applicants will be required to pay fees, or demonstrate that they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reductions for social equity applicants.

### 1.3 License Tiers

The Board establishes the following tiers for cultivation, retail, and manufacturing licenses, provided that if statute is not in agreement with this section, statute will dictate the tiers and supersede this section. If statute supersedes this section, the Board will construct its application process according to statute and will provide guidance readily available to the general public plainly describing the statutorily mandated tiers.

1.3.1 Cultivation License Tiers

(a) Outdoor Cultivation:

i.

| <b>Tier</b> | <b>Max Sq Ft of Total Plant Canopy</b> |
|-------------|--|
| 1           | 1,000                                  |
| 2           | 2,500                                  |
| 3           | 5,000                                  |
| 4           | 10,000                                 |
| 5           | 20,000                                 |
| 6           | 37,500                                 |

ii. For tiers 1-6 of the outdoor cultivation tiers in this subsection (a), the Board will presume that each plant occupies no more than 8 square feet of space. For this reason, cultivators will be presumed to be compliant with the plant canopy limits if they comply with the following plant count limits:

1. Tier 1: 125
2. Tier 2: 312
3. Tier 3: 625
4. Tier 4: 1250
5. Tier 5: 2,500
6. Tier 6: 4,687

Growing more than the maximum plant count for the cultivator’s tier will not be a violation of the plant canopy limit if the cultivator can show the plants occupy no more than the maximum square footage permitted for their tier.

iii. Applicants will be required to state on their application if they will measure their plant canopy by square footage or by plant count equivalent.

iv. Plants do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

(b) Indoor Cultivation:

| <b>Tier</b> | <b>Max Sq Ft of Total Plant Canopy</b> |
|-------------|--|
| 1           | 1,000                                  |
| 2           | 2,500                                  |
| 3           | 5,000                                  |
| 4           | 10,000                                 |
| 5           | 15,000                                 |
| 6           | 25,000                                 |

- (c)
- i. Mixed Cultivation:

| <b>Tier</b> | <b>Nature of Business</b>  |
|-------------|--|
| 1           | May cultivate up to 1,000 sq ft of plant canopy indoors and up to 125 plants outdoors at the same premises   |
| 2           | May cultivate up to 2,500 sq ft of plant canopy indoors and up to 312 plants outdoors at the same premises   |
| 3           | May cultivate up to 1,000 sq ft of plant canopy indoors and up to 625 plants outdoors at the same premises   |
| 4           | May cultivate up to 1,000 sq ft of plant canopy indoors and up to 1250 plants outdoors at the same premises  |
| 5           | May cultivate up to 1,000 sq ft of plant canopy indoors and up to 2,500 plants outdoors at the same premises |

- ii. Plants in the outdoor portion of a mixed cultivator’s crop do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

### 1.3.2 Retail License Tiers

Retail – Storefront: This tier is a stand-alone retail location that sells Cannabis and Cannabis Products to consumers.

### 1.3.3 Manufacturing License Tiers

No manufacturer may violate a prohibition on manufacturing processes contained in 18 V.S.A. § 4230h.

- (a) Tier 1 Manufacturer: A tier 1 manufacturer may, purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 1 manufacturer may produce Cannabis Products using all lawful methods of extraction.
- (b) Tier 2 Manufacturer: A tier 2 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 2 manufacturer may produce Cannabis Products using the following methods but may not utilize unapproved flammable solvent chemical extraction or flammable solvent chemical synthesis:
  - i. Water-Based Extraction: extraction using only water, ice, or other freezing substrate or process as approved by the Board.
  - ii. Food-Based Extraction: extraction using propylene glycol, glycerin, butter, coconut or olive oil, other typical cooking fats, or alcohol as approved by the Board.
  - iii. Heat/Pressure-Based Extraction: extraction using heat and/or pressure as approved by the Board.
- (c) Tier 3 Manufacturer: A tier 3 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 3 manufacturer may produce Cannabis Products using the same methods as a tier 2 manufacturer, but not a tier 1 manufacturer. A tier 3 manufacturer must be a home occupancy business with no more than one employee, and under \$10,000 in gross revenue each year.

#### 1.3.4 Changing Tiers

A licensee may change to a different tier within their license type upon renewal of their license pursuant to section 1.15 of this rule, provided that they meet all other renewal requirements. Upon renewal the licensee must pay the fees associated with the tier they seek to enter.

### **1.4 License Application Requirements for All License Types**

The requirements in this section apply to all license types authorized under 7 V.S.A. § 901.

#### 1.4.1 Operating plans

Applicants must present an operating plan, which shall include all requirements of 7 V.S.A. § 881(a)(1)(B)(i) and, to the extent they are not required by that provision, the following elements:

- (a) The proposed Cannabis Establishment's legal name and any registered alternate name under which it may conduct business.

- (b) The name of the individual who will serve as primary point of contact with the Board and an email address where the individual can be contacted.
- (c) The type of license sought and, if relevant, the license tier.
- (d) Documentation that the applicant is an entity registered to do business in Vermont;
- (e) A federal tax identification number and social security numbers for each principal of the proposed Cannabis Establishment and each natural person who controls the proposed Cannabis Establishment.
- (f) A list of the principals of the proposed Cannabis Establishment.
- (g) A list of all persons having control of the proposed Cannabis Establishment.
- (h) Whenever a person having control of a Cannabis Establishment is an entity, the applicant must provide:
  - i. a list of the principals of any entities having control of the Cannabis Establishment; and
  - ii. a list of natural persons who control any entities having control of the Cannabis Establishment.

Lists provided pursuant to this subsection 1.4.1(h) shall include without limitation natural persons who have control by way of beneficial ownership or record ownership.

Intervening entities do not relieve an applicant of the obligation of disclosure under this provision.

- (i) Documentation and description, including the persons involved, of any contractual, management, or other agreement that explicitly or implicitly conveys control over the Cannabis Establishment.
- (j) For each person identified in (f) through (i) of this subsection, disclose whether that person would be required to be identified pursuant to (f) through (i) of any other license application.
- (k) Documentation disclosing whether any person named in sections (f) through (i) of this subsection is a controlling interest holder in a past or present Cannabis-related business in another jurisdiction.

#### 1.4.2 Record Checks

An applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall be 21 years of age or older and shall consent to the release of his or her criminal and administrative records.

Each applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall submit the following:

- (a) the individual's full legal name and any aliases;
- (b) the individual's address;
- (c) the individual's date of birth;
- (d) a photocopy of the individual's driver's license or other government-issued identification card;
- (e) a full set of fingerprints in a form and manner as determined by the Board;
- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check;

- (g) a description of any criminal action against an applicant, principal, or person who controls an applicant in any jurisdiction that resulted in a conviction, guilty plea, plea of nolo contendere or admission to sufficient facts;
- (h) a description of any civil action that was commenced or resolved in the preceding 10 years in any jurisdiction in which the applicant, principal, or person who controls an applicant is or was a named party;
- (i) a description of any administrative action taken against the applicant, principal, or person who controls an applicant in any jurisdiction;
- (j) a description of any disciplinary action against a license, registration, or certification held by the applicant, principal, or person having control of an applicant, such as a suspension or revocation, including, but not limited to, a license to prescribe or distribute controlled substances; and
- (k) a description of any license denial, and the reasons for denial, in any jurisdiction.

The Board at its discretion may request any of the information described in subsections (g) through (k) of this section 1.4.2 for any natural person an applicant discloses pursuant to section 1.4.1(h) of this rule.

#### 1.4.3 Financiers

- (a) Applicants must disclose documentation detailing the sources and amounts of capital resources available to the applicant from any person that will be contributing capital resources to the applicant for the purposes of establishing or operating the proposed Cannabis Establishment.
- (b) In addition to the disclosure requirements for applicants, principals, and persons who control an applicant in section 1.4.1 of this rule, financiers of applicants who do not fall into one of those categories must be 21 years of age and may be subject to the following requirements at the Board's discretion, provided that this subsection shall not apply to commercial banks:
  - i. A requirement to disclose information to the Board or the Department of Financial Regulation;
  - ii. a requirement to conduct a background check for natural persons who are financiers or who control financiers;
  - iii. a requirement to disclose principals and natural persons who control a financier to the same extent required by section 1.4.1(h) of this rule; and
  - iv. requirements to ensure that a financier complies with any applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers.

#### 1.4.4 Compliance and Management Plans

All applicants must:

- (a) submit a contingency and continuity plan that addresses the dispersal or disposal of inventory in the event of an abrupt closure;
- (b) submit a timeline for beginning operations of the Cannabis Establishment;
- (c) attest that they will comply with applicable municipal ordinances; and

- (d) attest that they will comply with required inspections or permits from other state and local agencies (for example, certificates of occupancy).

Applicants who intend to hire, or who have hired, employees must provide:

- (e) an overview of positions and staffing levels;
- (f) an overview of general roles and responsibilities of staff;
- (g) an overview of the management structure; and
- (h) employee hiring and training plan, including safety training.

#### 1.4.5 Insurance, Taxation, and Banking Requirements

Each applicant shall submit the following:

- (a) documentation of insurance coverage as required by Board Rule 2.2.2;
- (b) documentation of bond or escrow for cessation of operation of a Cannabis Establishment costs in an amount to be determined by Board guidance;
- (c) documentation of compliance with, or plan to comply with, worker's compensation requirements, if applicable;
- (d) confirmation of current Vermont tax compliance, or confirmation of a plan with the Department of Taxes to come into compliance, provided that this does not apply to tax liability from income related to Cannabis businesses;
- (e) school property account number at the physical site of operations;
- (f) authorization to release information to other state agencies, or to banking entities with whom the applicant seeks to bank; and
- (g) sufficient documentation, as determined by the Board, of one of the following:
  - i. a deposit account with a financial institution; or
  - ii. evidence of an attempt to open such an account along with a cash management plan.

#### 1.4.6 Location Information

Applicants must provide both:

- (a) A business address as well as precise location information for the physical site of operations for the proposed Cannabis Establishment. A business address does not have to correspond with the physical site of operations. The location information for the physical site of operations must be in the form of GPS coordinates. GPS coordinates must be provided in Decimal Degrees (DD) format.
- (b) Proof that the applicant has a right to occupy the physical site of operations, through proof of ownership, a lease, or other document demonstrating a right to occupy and use the property, or proof that such a right will exist prior to the start of Cannabis Establishment operations.

#### 1.4.7 Security

All applicants must submit a plan to comply with security requirements relevant to any license or licenses they seek to obtain, as required by Board Rule 2.

#### 1.4.8 Information Sharing with State Agencies

By applying, an applicant consents to the Board sharing applicant information with other Vermont state agencies, including, but not limited to, the Department of Financial Regulation, the Department of Labor, and the Department of Taxes. Information deemed confidential by 7 V.S.A. § 901(h) will remain confidential even if it is in the possession of another state agency.

#### 1.4.9 Plans Related to Positive Impact Criteria

- (a) To the extent required in subsection (b), applicants must include plans related to the criteria listed in subsections (c) and (d). Failure to do so will not result in disqualification of their application but will pause their license approval process until they provide the relevant plan information. To the extent required by this section and section 1.15.3 of this rule, reports related to these criteria will be required for license renewal.
- (b) Applicants that are not testing laboratories must show plans for completion of the criteria in subsection (c) and (d) to the following extent:
  - i. Corporations, partnerships, or other business entities that are not sole proprietorships, and any applicants with plans to hire 2 to 10 employees must show plans to satisfy at least one criteria from subsection (c) and at least one criteria from subsection (d).
  - ii. All applicants that plan to hire more than 10 employees must show plans to satisfy at least 3 criteria from subsections (c) and at least three criteria from subsection (d).
- (c) To the extent required by subsection (b) of this section, applicants must propose plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition using the following options:
  - i. Inclusive hiring and contracting plans.
  - ii. A plan for providing a livable wage.
  - iii. Adopting and supporting incubator or accelerator programs that seek to assist businesses that meet the definition of a social equity applicant or are minority or women-owned, including but not limited to providing:
    - 1. grants or access to capital;
    - 2. workforce re-entry training or programming;
    - 3. cultivation, manufacturing, or retail space;
    - 4. management training or other forms of industry-specific technical training;or
    - 5. mentorship from experts;
  - iv. A contribution or contributions to the Cannabis Business Development Fund established by 7 V.S.A. § 987.
- (d) To the extent required by subsection (b) of this section, applicants must propose plans to incorporate principles of environmental resiliency or sustainability, including energy efficiency, using the following options:
  - i. Sustainable agricultural practices.
  - ii. Sourcing energy from renewables.

- iii. Exceeding minimum waste standards, as provided by Rule 2.2.8, or exceeding minimum efficiency standards as provided by Rule 2.5, if applicable.
- iv. Contribute to anti-pollution efforts, which could include but is not limited to the use of carbon off-sets.

#### 1.4.10 Statement of Truthfulness and Accuracy

All applicants shall attest to the truthfulness and accuracy of the information contained in their application.

### 1.5 License Application Requirements for Cultivators

The requirements in this section apply to applications for a cultivator license.

#### 1.5.1 Location Information

In addition to the information required in subsection 1.4.5 of this rule, an applicant must provide:

- (a) A diagram or a site plan of the physical site of operation that is clearly legible and includes:
  - i. north arrow;
  - ii. standard scale;
  - iii. size of property in acres (for outdoor cultivator) or total square feet (for indoor cultivator);
  - iv. total plant canopy dimensions;
  - v. for outdoor cultivators, use of land and structures that share the property;
  - vi. for indoor cultivators, a diagram of how non-cultivation parts of the facility will be utilized.
- (b) A map showing the boundaries of the planned growing area, provided that this requirement applies only to outdoor cultivator Tiers 2-6.
- (c) The location for outdoor cultivators must comply with Rule 2.4.4 regarding visibility from a public road.

#### 1.5.2 Water and Wastewater Requirements

General water supply and municipal wastewater requirements:

- (a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utility's capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.
- (b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater system's capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.

Tier 5 and 6 Cultivator applicants must:

- (c) state the following if their water use and wastewater generation are covered by the Wastewater System and Potable Water Supply Rule, as promulgated by the Department of Environmental Conservation:

- i. where they are planning on withdrawing water;
  - ii. by what means will they withdraw and, if necessary, store the water prior to use;
  - iii. when on-site water is also used for potable/sanitary purposes for workers;
  - iv. how many people may be on-site in a given day;
- (d) specify the volume and strength of the wastewater that the facility anticipates generating, using design flows from the Wastewater System and Water Supply Rule where appropriate and specify how it will be treated and disposed;
- (e) state whether the Cannabis Establishment needs to comply with the Indirect Discharge Rules and Underground Injection Control Rules as promulgated by the Department of Environmental Conservation; and
- (f) describe the anticipated means of collecting, storing, treating, and discharging wastewater.

### 1.5.3 Indoor Cultivators

Indoor cultivation Cannabis Establishments must identify whether their water supply and wastewater systems must comply with any applicable portion of the Department of Environmental Conservation's Drinking Water and Groundwater Protection Division rules.

## 1.6 License Application Requirements for Manufacturers

The requirements in this section apply to applications for a manufacturing license.

Manufacturers must indicate whether they are planning to utilize solvent-based extraction.

## 1.7 License Application Requirements for Retailers

The requirements in this section apply to applications for a retail license.

Retailers must indicate whether any intended sale items will contain CBD, hemp, or a hemp-derived compound, or is a consumable item that is not intoxicating.

## 1.8 License Application Requirements for Testing Laboratories

The requirements in this section apply to applications for a testing laboratory license.

Applications for testing laboratories may be reviewed for qualification by the Board or a Board designee.

At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567.

A testing laboratory applicant must submit:

- (a) current laboratory accreditation certificates, or proof of certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567;
- (b) laboratory quality assurance manual or procedures which document the lab quality control system, and an outline of the quality management system;
- (c) the laboratory standard operating procedures for analysis of Cannabis and Cannabis Products;
- (d) a master list of all analytical and non-analytical (i.e., safety and training) standard operating procedures indicating the latest revision and review dates and current effective dates;
- (e) documentation of educational and technical credentials for all key technical and management personnel;
- (f) current organization chart, including reporting relationships;
- (g) example Certificates of Analysis (CoA) to be issued by the laboratory for each test area, containing all information required in a CoA;
- (h) the latest proficiency results for Cannabis testing or similar matrix (i.e., food, solids,) for all test areas in which it states it is certified, if available;
- (i) proof of analytical proficiency.

### **1.9 License Application Requirements for Integrated Licensees**

The requirements in this section apply to applications for an integrated license.

An integrated license applicant must meet all requirements in sections 1.4-1.8 of this rule, and must also submit:

- (a) A plan to provide reduced cost or free Cannabis to patients with documented, verified financial hardship who are utilizing the dispensary operation;
- (b) a plan to ensure 25% of Cannabis flower sold is obtained from tier 1 cultivators,
- (c) a list of products purchased by registered patients in the preceding 12 months;
- (d) plan to ensure continuity of products for patients accessing the dispensary operation;
- (e) plan to contribute \$50,000 to the Cannabis business development fund by October 1, 2022; and
- (f) attestation of good standing with respect to their medical Cannabis dispensary license in accordance with 7 V.S.A. § 903(a)(1). For the purposes of this subsection (f), good standing shall mean the dispensary is in compliance with Chapter 86 of Title 18 of the Vermont Statutes, and with all associated rules.

### **1.10 License Application Acceptance Periods**

- (a) The Board will accept license applications in accordance with legislatively mandated time periods.
- (b) Other than legislatively mandated time periods, the Board may open or close acceptance periods for applications at its discretion, provided that the Board will give public notice no less than 30 days prior to opening and 30 days prior to closing an application acceptance period.

- (c) The Board may set separate application acceptance periods for each of the license types and may set separate application acceptance periods for each tier within tiered license types.
- (d) Other than legislatively mandated application acceptance periods, the Board may open application periods at their discretion, subject to the following limitations:
  - i. the Board shall accept applications for license types, other than cultivation license types, for no less than 30 days each calendar year; and
  - ii. the Board shall accept applications for Tiers 1 and 2 of both indoor and outdoor cultivation license types for no less than 30 days each calendar year. The 30-day window for this subdivision 1.10(d)(ii) must open no later than February 1 of each calendar year.
- (e) Nothing in this section 1.10 shall be interpreted to impact the license renewal process governed by section 1.15 of this rule.

## **1.11 Criminal Records and License Qualification Determinations**

### **1.11.1 Effect of Criminal Records on Application**

Except as provided in 1.11.2, no criminal offense committed by an applicant, the principal of an applicant, or a person who owns or controls an applicant, will have a negative effect on their application or disqualify them from obtaining a license.

### **1.11.2 Presumptive Disqualification**

Convictions for offenses in the following categories presumptively disqualify an applicant, the principal of an applicant, or a person who controls an applicant from gaining a license to operate a Cannabis Establishment, provided that a person may overcome the presumption as specified in section 1.11.3:

- (a) A listed crime as defined in subsection 13 V.S.A. § 5301(7) or the equivalent in another jurisdiction;
- (b) A conviction for an offense in 13 V.S.A. chapter 64 or the equivalent in another jurisdiction;
- (c) a state or federal felony offense involving fraud, deceit, or embezzlement;
- (d) convictions that demonstrate an ongoing involvement with organized criminal enterprises, including violent gangs and drug cartels;
- (e) trafficking of a regulated substance other than Cannabis. For the purposes of this subsection (c), trafficking will mean a violation of 18 V.S.A. §§ 4231(c), 4233(c), 4233a(b), 4234a(c), or a non-violent drug distribution offense in another jurisdiction that carries a maximum penalty of 30 years of incarceration or greater;
- (f) dispensing cannabis to a person under 21 years of age in violation of 18 V.S.A. § 4230f, or the equivalent offense in another jurisdiction;
- (g) misdemeanor convictions that occurred within the 2 years preceding the application; except for non-violent offenses; or
- (h) felony convictions that occurred within the 5 years preceding the application, except for non-violent offenses.

### 1.11.3 Overcoming Presumptive Disqualification

The Board may deem an individual qualified to obtain a license even if they were convicted of an offense enumerated in section 1.11.2. In making this decision, the Board shall consider the following factors:

- (a) The nature and seriousness of the crime or offense;
- (b) The circumstances under which the crime or offense occurred;
- (c) The date of the crime or offense;
- (d) The age of the person when the crime or offense was committed;
- (e) Whether the individual committed subsequent offenses;
- (f) Any social conditions that may have contributed to the commission of the crime or offense;
- (g) The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds; and
- (h) Any evidence of rehabilitation.

License applications will allow applicants to provide additional information related to these factors, if relevant.

## 1.12 Issuance of Licenses

- (a) The Board shall issue licenses to applicants who meet all requirements for their licenses contained in this rule and all requirements for their licenses contained in Chapter 33 of Title 7 of the Vermont Statutes.
- (b) Notwithstanding subsection (a) of this section 1.12, the Board retains the right to deny a license to an applicant that the Board finds would threaten public health or safety if the applicant were to obtain a license. Such a decision shall be supported by written findings.
- (c) Applicants who falsely attest to the truthfulness and accuracy of the information in their application will be deemed unqualified for a license. If an applicant applies for a license again subsequent to such a denial, the Board may request additional information from the applicant, at the Board's discretion, to assess the truthfulness and accuracy of the subsequent application.
- (d) A licensee, the principal of a licensee, or person who controls a licensee, whose license has been revoked pursuant to Board Rule 4, may not obtain a license until at least 1 year has passed since the revocation took effect.
- (e) A grant or denial of a license under this section 1.12 shall constitute a final decision of the Board for the purposes of appeals pursuant to 7 V.S.A. § 847.

## 1.13 Prequalification Approval

### 1.13.1 Purpose of Prequalification Approval

The Board at its discretion may choose to issue prequalification approvals, in accordance with this section, for the purposes of smoothing the application process for applicants as well as assisting the Board in anticipating the structure of the market.

#### 1.13.2 Limits of Prequalification Approval

A prequalification approval does not permit the recipient to operate a Cannabis Establishment. An applicant does not become a licensed Cannabis Establishment, and is not permitted to operate, until the Board issues the applicant a license subsequent to the submission of the applicant's complete and successful application in accordance with this rule.

#### 1.13.3 Forms and Fees for Prequalification Approval

- (a) Those applying for prequalification approval are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

#### 1.13.4 Prequalification Approval Application Acceptance Periods

The Board may choose to accept prequalification approval applications at its discretion. It will provide public notice of its intention to accept prequalification approval applications no less than 30 days prior to opening the acceptance period. It will provide public notice of its intention to close a prequalification approval application acceptance period no less than 30 days prior to closure.

#### 1.13.5 Prequalification Approval Application and Issuance

- (a) prequalification approval applications shall consist of the materials required by sections 1.4.1 and 1.4.2 of this rule.
- (b) The Board shall certify a prequalification approval for any prequalification approval application that meets the requirements of subsections 1.4.1 and 1.4.2 of this rule and is not in violation of 7 V.S.A. § 901(d)(3).

#### 1.13.6 Converting a Prequalification Approval to a Full License Application

Prequalification approvals shall remain valid for 365 days from the date of issuance. They may be rescinded by the Board if the Board learns that information provided in the prequalification approval application was not truthful or accurate. Persons with a prequalification approval must do the following to convert their prequalification approval into a full license application:

- (a) update all information submitted in accordance with section 1.13.5 of this rule, and
- (b) provide all other applicant information required by this rule.

### **1.14 Priority of Board Considerations for License Applications**

- (a) The Board shall consider applications under a priority system that is laid out in a policy readily available to the public.

- (b) The policy shall give top priority to social equity applicants when considering applications.
- (c) The policy shall also utilize the factors listed in 7 V.S.A. § 903(a).

## **1.15 License Renewal Procedures**

### **1.15.1 License Renewal Timeframes**

- (a) Licenses are valid for the time period provided in 7 V.S.A. § 901, except as provided in section 1.17 of this rule.
- (b) The Board will send notice for license renewals no less than 120 days prior to the expiration of a license.
- (c) Renewal applications may be submitted up to 90 days prior to their expiration.
- (d) A licensee must apply for renewal no less than 30 days prior to the license's expiration date, provided that:
  - i. if a licensee fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
  - ii. the Board may accept such a renewal application and, if necessary, continue the licensee's existing license until such time as the renewal process is completed.
- (e) If a licensee files a timely renewal application but does not receive a response from the Board prior to the expiration date for their license their license shall continue to be valid until such time as the Board provides a response, at which time their license will be renewed if the application is granted or terminated if it is not.
- (f) A licensee who does not submit a license renewal application prior to the expiration of their license is no longer a licensee upon the date their license expires. Such a person may no longer operate the Cannabis Establishment.

### **1.15.2 License Renewal Form and Fees**

- (a) Licensees must apply for renewal in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

### **1.15.3 License Renewal Information Requirements**

Licensees must submit the following information with their renewal applications, if applicable:

- (a) efficiency to the extent required by Board Rule 2.5.6;
- (b) a description of changes or adjustments to an outdoor cultivation site, if any, providing the same type of location information as required by sections 1.4.5 and 1.5.1 of this rule;
- (c) all other updates to the information submitted in a licensee's application or prior renewal application; and
- (d) information regarding progress on the licensee's required goals as required by section 1.4.9 of this rule.

Nothing in this section should be interpreted to supersede or alter a licensee's continuing duty to disclose as provided by Board Rule 2.11.

#### 1.15.4 Conditions For Renewal

The Board shall renew the license of a licensee that meets the following requirements:

- (a) Remains in compliance with this rule, with all other relevant Board Rules, and with the provisions of Chapter 33 of Title 7 of the Vermont Statutes, provided that Notices of Violation will be dealt with in accordance with subsection (d) of this section 1.15.4;
- (b) has paid any fee required by 1.15.2;
- (c) has provided the information required by 1.15.3; and
- (d) is in good standing with the Board. For the purposes of this section, good standing is defined as having no unpaid or otherwise unsatisfied final Notice of Violation against the licensee issued pursuant to Board Rule 4, provided that:
  - 1. a Notice of Violation will not be considered final for the purposes of this section until all appeals have been exhausted or waived, and
  - 2. A licensee who is complying with a Board-approved plan to remediate harm stemming from a violation will be considered in good standing.

A licensee whose license has been suspended or revoked pursuant to Board Rule 4 will not be considered a licensee for the purposes of this section. License reinstatement in those circumstances, if available, is governed by Board Rule 4.

### 1.16 Cannabis Establishment Identification Cards

#### 1.16.1 Identification Cards for Owners and Principals

- (a) For the purposes of this section, an "owner" means a natural person who controls, or shares control of, a Cannabis Establishment.
- (b) All owners and principals will be issued Cannabis Establishment identification cards upon the issuance of a license to operate a Cannabis Establishment.

#### 1.16.2 Forms and Fees for Cannabis Establishment Identification Cards

- (a) Those applying for identification cards are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

#### 1.16.3 Application Requirements for Cannabis Establishment Identification Cards

To apply for a Cannabis Establishment identification card the following information must be submitted:

- (a) the individual's full legal name and any aliases,

- (b) the individual's address,
- (c) the individual's date of birth,
- (d) a photocopy of the individual's driver's license or other government-issued identification card,
- (e) a full set of fingerprints in a form and manner as determined by the Board,
- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check,
- (g) a listing of criminal convictions, including any pending offenses,
- (h) information listed in section 1.11.3 of this rule, if applicable,
- (i) if the applicant holds or has held a similar card in another jurisdiction, the name of the issuing authority, and the approximate dates held, and
- (j) if a similar card is or has been held in another jurisdiction, whether that card was revoked and the reason for revocation.

#### 1.16.4 Qualification for Cannabis Establishment Identification Cards

Individuals who submit a complete application for an identification card will be issued a card after a background check is complete, except that:

- (a) No individual under 21 years of age will be issued an identification card; and
- (b) the Board may deny an individual an identification card if an applicant has a record of any of the following:
  - i. a presumptively disqualifying criminal offense as defined in 1.11.2, provided that the Board will also consider mitigating factors as defined in 1.11.3;
  - ii. diversion of Cannabis from a past Cannabis Establishment employer in the regulated market in Vermont or another state;
  - iii. failure to disclose required information on their application;
  - iv. revocation of a similar identification card from Vermont or another jurisdiction in the last 2 years, or more than twice;
  - v. fraudulent use of the identification card in Vermont or other jurisdictions including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate the card;
  - vi. failure to notify the Board of a lost, stolen, or destroyed card; and
  - vii. failure to notify the Board of convictions pending at the time of application or convictions that occur after the card is issued.
- (c) The Board will retain discretion to issue identification cards to individuals who have a record of behavior as outlined in subsection (b) if they demonstrate evidence of rehabilitation or show mitigating social factors surrounding the behavior. Identification card applications will allow for individuals to provide such evidence or explanation, if relevant.

#### 1.16.5 Temporary Work Permit

- (a) Upon receipt of an application for an identification card and prior to the completion of a background check the Board will issue a temporary work permit allowing the individual to work at a Cannabis Establishment if the applicant is over 21 years old and discloses no

record of behavior related to 1.16.4(b) of this rule, except that the Board retains discretion to deny a temporary license to any applicant if the Board has knowledge of such a record.

- (b) The Board may withdraw a temporary permit if they gain knowledge of behavior related to 1.16.4(b) after issuing a permit.
- (c) If an application for an identification card discloses behavior related to 1.16.4(b) of this rule, the Board retains discretion to issue a temporary work permit if the Board determines it can do so consistent with public health and safety.
- (d) A temporary permit will expire after 4 months, or upon the issuance or denial of an identification card, whichever comes first. If a temporary permit expires before the Board decides whether to issue or deny an identification card, the Board shall issue a new temporary permit card.

#### 1.16.6 Ongoing Duty to Disclose

The holder of an identification card has an ongoing duty to fully and transparently disclose any information relevant to the criteria in section 1.16.4 of this rule.

#### 1.16.7 Identification Card Renewal

- (a) All holders of identification cards will undergo a background check by the Board prior to renewal.
- (b) Requests to renew identification cards will be considered pursuant to the standard in section 1.16.4 of this rule.
- (c) Identification cards will expire in accordance with the timeline provided by 7 V.S.A. § 884. Identification cards will have an expiration date printed on them.
- (d) Requests to renew identification cards will adhere to the following timeline:
  - i. A card holder must apply for renewal no less than 30 days prior to the card's expiration date, provided that:
    - 1. if a card holder fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
    - 2. the Board may accept such a renewal application and, if necessary, continue the card holder's existing card until such time as the renewal process is completed.
  - ii. If a card holder files a timely renewal application but does not receive a response from the Board prior to the expiration date for their card the card shall continue to be valid until such time as the Board provides a response, at which time their card will be renewed if the application is granted or terminated if it is not.
  - iii. A card holder who does not submit a license renewal application prior to the expiration of their card is no longer a card holder upon the date their card expires. Such a person may no longer work at a Cannabis Establishment.
- (e) Upon the final expiration of an identification card the holder of the card must return it to the Board or must destroy it.

### **1.17 Change of License Control or Change of License Location Requires a License Renewal Application**

- (a) Either of the following changes to a license requires a licensee to submit a license renewal application in accordance with the terms of this section and section 1.15 of this rule:
  - i. When an interest holder who has control of a licensee will be changed, including by adding a person who will be an interest holder and will have control, removing a person who is an interest holder and has control, or transferring control from one person who is an interest holder to another person who is an interest holder. This provision does not apply in the event of the death of an interest holder who has control of a licensee. In such instances the licensee shall notify the Board of the death at the time the license is to be renewed pursuant to 7 V.S.A. § 901 section 1.15.1 of this rule.
  - ii. When a licensee wishes to change the physical site of operations for their license.
- (b) A licensee may not consummate a change of control before the Board approves their license renewal application.
- (c) A licensee may not move to a new physical site of operations before the Board approves their license renewal application.
- (d) A license renewal application submitted pursuant to this section 1.17 may be submitted at any time, including during the time a licensee's regular renewal application would be submitted pursuant to section 1.15.1 of this rule. For renewal application submitted during the regular renewal timeframe, licensees may submit one renewal application that satisfies section 1.15 and this section 1.17.
- (e) The renewal must have all application information updated to reflect the proposed changes of control or change of location. These updates must include, but are not limited to, updates of the information required in sections 1.4.1, 1.4.2, and 1.4.6 of this rule.
- (f) A licensee who fails to renew their license prior to consummating a change of control or moving to a new location will be considered a licensee who failed to renew their license before it expired, as provided in section 1.15.1(f) of this rule.
- (g) The fees required by section 1.15.2 of this rule will apply to renewal applications submitted pursuant to this section, provided that the Board will retain discretion to waive or reduce fees for such renewals.
- (h) A change of control that results in a social equity licensee no longer meeting the qualifications to be a social equity applicant could trigger a requirement that the new licensee repay fee waivers from prior years, in accordance with the fee waiver or reduction policy that the Board will make readily accessible to the public.
- (i) Upon Board approval of a license renewal application submitted pursuant to this section the time period for which a license remains valid, as provided by 7 V.S.A. § 901, will start again.
- (j) If the Board does not approve a license renewal application submitted pursuant to this section, the licensee may not proceed with the proposed change in control or the proposed move. The licensee's existing license will remain in effect until such time as renewal would otherwise have been required by 7 V.S.A. § 901.

- (k) A licensee who has been granted a license to change location pursuant to this section shall not be considered to be in violation of the license location restrictions of 7 V.S.A. § 901 during the move from one location to another, provided that:
- i. the move may not last longer than 60 days from the grant of the new license, and
  - ii. the Board retains discretion to find the licensee in violation of Board rules if, in the Board's judgment, the licensee is utilizing this provision to effectively subvert the location limitations of 7 V.S.A. § 901 by operating their Cannabis Establishment out of both locations.

### **1.18 Waiver Provisions for Tier 1 Cultivators**

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

- (a) 1.4.2(g);
- (b) 1.4.2(h);
- (c) 1.4.4(a);
- (d) 1.4.4(b);
- (e) 1.4.4(c);
- (f) 1.4.4(e);
- (g) 1.4.4(f);
- (h) 1.4.4(g);
- (i) 1.4.4(h);
- (j) 1.4.5(b);
- (k) 1.5.2(a), if the cultivation establishment will be a home occupancy business; and
- (l) 1.5.2(b), if the cultivation establishment will be a home occupancy business.

### **1.19 Applicant's Ongoing Duty to Disclose**

An applicant has an ongoing duty to fully and transparently update their application while it is pending if there are changes to any information submitted in their application.

### **1.20 Confidentiality**

Application materials will be kept confidential by the Board to the extent required by 7 V.S.A. § 901(h).

**STATE OF VERMONT  
CANNABIS CONTROL BOARD**

**RULE 2: REGULATION OF CANNABIS ESTABLISHMENTS**

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## **2. Rule 2: Regulation of Cannabis Establishments**

Not every applicable prohibition, restriction, and requirement is contained in this rule. All Cannabis Establishments must abide by the prohibitions, restrictions, and requirements of Chapter 33, Title 7 of the Vermont Statutes. Cannabis Establishments must also abide by all other applicable laws, including but not limited to worker's compensation laws and tax laws.

### **2.1 General Provisions**

#### **2.1.1 Authority**

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 865, 866, 881, 883, 884, 904, 907, and other applicable law.

#### **2.1.2 Scope and Purpose**

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates Cannabis Establishments.

#### **2.1.3 Definitions**

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

- (a) "Board designee" means a person designated by the Board to act as its agent for the purpose of executing the Board's responsibilities. This may be an employee of the Board, another government agency, or a contractor.
- (b) "Greenhouse" means a structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively for, and essential to, the cultivation or maintenance of Cannabis plants and that is in use for a period of 180 days or more each calendar year.
- (c) "Harvest lot" means a grower's harvested Cannabis produced during a single growing season in a contiguous area containing the same cultivar or variety.
- (d) "Home occupancy business" means a business operated on the premises of an individual's home or property where the individual is domiciled.
- (e) "Indoor cultivation" means growing Cannabis using artificial lighting.
- (f) "Interest holder" has the same meaning as defined in 11A V.S.A. § 11.01(11).
- (g) "Inventory Tracking System" means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
- (h) "Licensee" means a person who has been issued a license pursuant to Board Rule 1. A licensee does not include a person who has been issued a prequalification approval.
- (i) "Outdoor cultivation" means growing Cannabis in an expanse of open or cleared ground or in a structure that does not use artificial lighting and is not a greenhouse.

- (j) “Pesticide” shall have the same meaning as “economic poison” as defined in 6 V.S.A. § 911(5).
- (k) “Physical site of operations” means:
  - i. a cultivator’s grow site;
  - ii. a wholesaler’s product storage facility;
  - iii. a manufacturer’s site of manufacture;
  - iv. a retailer’s store location; or
  - v. a testing laboratory’s testing facility.
- (l) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources.
- (m) “Process lot” means any amount of Cannabis concentrate, Cannabis Product or Cannabis-infused product of the same type, processed at the same time, using the same ingredients and same standard operating procedures.

Any time this rule references a retail Cannabis Establishment or otherwise references retail stores, such references shall include the retail portion of an integrated licensee unless the text of the rule plainly states that it does not.

#### 2.1.4 Applicability

This rule applies to Cannabis Establishments and persons who control, operate, manage, or are employed by Cannabis Establishments.

#### 2.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
  - (1) the day of the act or event that triggers the period shall be excluded;
  - (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
  - (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (b) A “legal holiday” means:
  - (1) any day declared a holiday by the President or Congress of the United States; and
  - (2) any day declared a holiday by the State of Vermont.

#### 2.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

## 2.2 Generally Applicable Regulations

The requirements in this section are generally applicable to participants in the regulated market for Cannabis and Cannabis Products.

### 2.2.1 Business Records

Cannabis Establishments are required to maintain the following records in such a way that they can be readily accessed from the physical site of operations and made available for inspection by the Board, upon request:

- (a) employee list;
- (b) information related to facility security;
- (c) advertising records, if applicable;
- (d) inventory records;
- (e) insurance records;
- (f) visitor log, to the extent required by this rule;
- (g) all records retained for tax purposes;
- (h) waste log;
- (i) surveillance logs, if applicable;
- (j) testing records, including all Certificates of Analysis;
- (k) sampling unit records;
- (l) standard operating procedures manuals; and
- (m) corrective action plan and preventive action records, if applicable.

### 2.2.2 Insurance

- (a) A Cannabis Establishment shall obtain and maintain commercially reasonable levels of insurance.
- (b) A Cannabis Establishment that documents an inability to obtain commercially reasonable levels of insurance coverage as required by subsection (a) of this section must place in escrow a sum in one of the following amounts:
  - i. For retailers, wholesalers, integrated licensees, testing laboratories, tier 1 manufacturers, and tier 4, 5, and 6 cultivators of any type, a sum of no less than \$250,000 to be expended for coverage of liabilities.
  - ii. For tier 2 and 3 manufacturers and tier 2 and 3 cultivators of any type, a sum of no less than \$50,000 to be expended for coverage of liabilities.
  - iii. For tier 1 cultivators of any type a sum of no less than \$10,000 to be expended for coverage of liabilities.
- (c) The escrow account required in subsection (b) of this section must be replenished within ten business days of any expenditure.
- (d) Cannabis Establishments must be prepared to demonstrate compliance with this subsection at any time, with records maintained in such a way that they can be readily accessed from the physical site of operations upon the request of the Board or Board designee.

### 2.2.3 Continuing Disclosure and Background Check Requirements

At the Board's discretion, the entities or persons named in Rule 1.4.2 or 1.4.3 may be required to resubmit any information described in those sections if the Board has reason to believe that information has changed since the time of a license application or license renewal. They may be subject to the same background checks and financial disclosures provided for in those sections. The information may be shared with other state agencies, as provided for by Rule 1.4.8.

#### 2.2.4 Health, Safety, and Sanitation

Cannabis Establishments shall:

- (a) develop safe and sanitary handling procedures for all products;
- (b) provide regular training on health, safety, and sanitation procedures;
- (c) ensure that employees follow procedures;
- (d) immediately report to the Board breaches in health, safety, and sanitary procedures that pose a risk to consumer safety; and
- (e) comply with applicable health, safety, and sanitation rules, including, but not limited to, the Vermont Occupational and Safety and Health Administration Rules, applicable fire safety rules, applicable building standards and occupancy rules, and the Good Manufacturing Practices for Food Rule, as promulgated by the Vermont Department of Health.

Subsection (e) does not assign responsibility for enforcing those regulations to their respective state agencies, nor does it indicate such responsibility.

#### 2.2.5 Employment and Training

- (a) Licensee Training: In accordance with 7 V.S.A. 865(a), the agents of those who control a Cannabis Establishment shall complete an enforcement seminar once every three years. For the purposes of this section, an agent refers to anyone who is an employee of the establishment, who works at the establishment, or who plays a significant operational role within the licensee, including members of the licensee's board of directors or similar governing body.
- (b) General Employee Training: within 60 days of hire and annually after that, employees of Cannabis Establishments must complete trainings regarding the following topics, except that employees of retail establishments may not sell Cannabis or Cannabis Products to consumers without first completing trainings regarding the first 5 topics of the following list:
  - i. the Cannabis Establishment's operating, security, health, safety, and sanitary procedures;
  - ii. compliance, enforcement, inspection, incident reporting, and record-keeping;
  - iii. acceptable forms of identification for staff and visitors, if permitted by this rule;
  - iv. inventory control and appropriate tracking systems;
  - v. cash handling;
  - vi. human trafficking and domestic violence awareness;
  - vii. diversity, equity, and inclusion;
  - viii. racism and bias; and

- ix. sexual harassment and discrimination.
- (c) Retail Employee Training: customer-facing employees of retail Cannabis Establishments must complete trainings regarding the following topics, and may not sell Cannabis or Cannabis Products to consumers until they do so:
  - i. the health effects of Cannabis and Cannabis Products;
  - ii. preventing the sale of Cannabis to minors; and
  - iii. signs of overconsumption and signs of mental health or substance abuse disorder.

#### 2.2.6 Tracking of Cannabis and Cannabis Products

- (a) Cannabis Establishments shall comply with the Inventory Tracking System in a manner determined by the Board and shall cooperate with any third-party vendors the Board utilizes for the purpose of implementing the system. The Inventory Tracking System policy shall be readily available to the public and will not change without at least 90 days of notice.
- (b) Cannabis Establishments shall be responsible for costs associated with compliance with, and adoption of, the Inventory Tracking System.
- (c) All Cannabis and Cannabis Products must be tracked using the Inventory Tracking System from the time the Cannabis is grown by a cultivator until it is sold to a consumer by a retailer. A Cannabis Establishment must reconcile all on-premises and in-transit Cannabis or Cannabis Product inventories each month and must complete the reconciliation within 15 days of the end of each month.
- (d) Cannabis Establishments must have the ability to reconcile transported and on-hand Cannabis and Cannabis Product inventory with the Inventory Tracking System and the associated transaction history and transportation order receipts.
- (e) If Cannabis or Cannabis Product is not ultimately sold to a consumer, it must be disposed of in the manner prescribed by section 2.2.8 of this rule and the disposal must be entered into the Inventory Tracking System.
- (f) Cannabis Establishments and the individuals using the Inventory Tracking System are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

#### 2.2.7 Transportation of Cannabis and Cannabis Products

Cannabis and Cannabis Products may be transported by the following individuals in the following ways:

- (a) Only individuals who have a Cannabis Establishment identification card issued pursuant to Rule 1.6 are permitted to transport Cannabis or Cannabis Products between Cannabis Establishments. Individuals transporting Cannabis or Cannabis Products must carry their identification card at all times while transporting Cannabis or Cannabis Products.
- (b) Transportation must take place in a vehicle, except that transportation in a vehicle is not required if the licensee is transporting Cannabis or Cannabis Product from one licensed premises to another within the same or a contiguous property, or any transport where the destination Cannabis Establishment can be seen by the unaided eye from the originating Cannabis Establishment.

- (c) When Cannabis or Cannabis Products are transported in a vehicle:
  - i. they must not be visible from outside the vehicle;
  - ii. the driver must not be able to access them from the driver's seat; and
  - iii. the vehicle must be unmarked.
- (d) Vehicles used for transportation must be registered and current in their registration, inspection, and insurance. Vehicles must have a valid registration with a state's Department of Motor Vehicles, or equivalent agency.

Cannabis Establishments must conduct transports as follows:

- (e) Cannabis Establishments may transport Cannabis and Cannabis Products only between Cannabis Establishments.
- (f) The transporting Cannabis Establishment must enter all Cannabis and Cannabis Products to be transported into the Inventory Tracking System.
- (g) Prior to departure from a Cannabis Establishment, the establishment must generate a transport manifest that contains the following:
  - i. departure date, location, and approximate time of departure;
  - ii. name and location of the destination Cannabis Establishment(s);
  - iii. name and identification card number of those transporting the Cannabis or Cannabis Product;
  - iv. product name and quantities (by weight and unit) of each product to be delivered to the specific Cannabis Establishment(s);
  - v. estimated time of arrival at each Cannabis Establishment;
  - vi. transport vehicle's make, model, and license plate number; and
  - vii. a signature line and time notation to be signed by an employee of the Cannabis Establishment who receives the transported product.
- (h) Cannabis Establishments must transmit transport manifests to receiving Cannabis Establishments before departure.
- (i) While transporting Cannabis or Cannabis Products, individuals must log the times of arrival at, and departure from, any stops, whether planned or unplanned. Logs must be maintained contemporaneously and must give a reason for stops that are not at Cannabis Establishments.
- (j) To the extent possible, individuals transporting Cannabis or Cannabis Products must stay with their vehicles while transporting Cannabis or Cannabis Products. Where Cannabis Licensed Agents have the option to stay with their vehicle, they must choose that option. Except for the entry and exit of those transporting the Cannabis or Cannabis Product, vehicles must be locked and secured.
- (k) No transport of Cannabis or Cannabis Products shall cross state borders.

Cannabis Establishments must receive transports as follows:

- (l) Cannabis Establishments receiving Cannabis or Cannabis Product from a transport must log the time of receipt.
- (m) Upon receipt of a transport, the receiving Cannabis Establishment shall ensure that the products received are as described in the transport manifest and shall adjust its records and the Inventory Tracking System to reflect the receipt of inventory within 24 hours of when it is received. If there are discrepancies, the receiving Cannabis Establishments must specify them.

Transports must meet these additional conditions:

- (n) Storage and transportation shall be under conditions that will protect Cannabis and Cannabis Products from loss and theft, as well as against physical, chemical, and microbial contamination and against deterioration of product.
- (o) If a Cannabis Establishment is transporting over 20 pounds of Cannabis on a dry weight basis, the Cannabis must be transported in a secure, locked storage compartment within the transportation vehicle.
- (p) Cannabis Establishments shall report to the Board any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, within not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.
- (q) In the event Cannabis has failed required testing, has been contaminated, or otherwise presents a risk of cross-contamination to other Cannabis, such Cannabis may only be transported if it is physically segregated and contained in a sealed package that prevents cross-contamination.

#### 2.2.8 Waste Disposal

- (a) All applicable federal, state, and local statutes, regulations, and ordinances apply to waste disposal from Cannabis Establishments. This includes, but is not limited to, all regulations pertinent to chemical, dangerous, and hazardous waste, such as those that may be generated during product manufacturing processes, as well as all pesticides and other agricultural chemicals.
- (b) Cannabis or Cannabis Products must be rendered unusable and unrecognizable before disposal. The acceptable methods for rendering Cannabis and Cannabis Product unusable and unrecognizable will be enumerated by the Board in a policy that will be readily available to the public.
- (c) Organic material that has either no tetrahydrocannabinol content or a tetrahydrocannabinol content under 0.3%, doesn't need to be rendered unusable or unrecognizable. It can be composted onsite or disposed of in a manner otherwise consistent with applicable law and regulation.
- (d) Disposal of Cannabis and Cannabis Products must be tracked with the Inventory Tracking System, as provided for by section 2.2.6 of this rule.

#### 2.2.9 Packaging

- (a) The following requirements apply to all Cannabis and Cannabis Product packaging as it is transferred between Cannabis Establishments. Such packaging must:
  - i. meet the requirements of section 2.2.10(b) of this rule;
  - ii. clearly identify package contents;
  - iii. be free from false or misleading statements; and
  - iv. not use objects, such as toys, inflatables, movie characters, cartoon characters, child-friendly depictions of food or other consumables, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21 years of age.

- (b) Packaging that is intended for consumer purchase at a retail location shall be reusable and shall not be plastic. In addition, such packaging shall meet further requirements to the extent provided for in sections 2.3.5, 2.6.3, 2.7.3, and 2.8.4 of this rule.

#### 2.2.10 Warning Labels

The Board will make copies of the labels below readily available for use by Cannabis Establishments.

- (a) All marketing, advertising, branding, packaging, and promotion must include the following warning exactly as it is below:

*This is a cannabis product and has not been analyzed or approved by the Food and Drug Administration (FDA). For use by individuals 21 years of age and older or registered qualifying patient only. **KEEP THIS PRODUCT AWAY FROM CHILDREN AND PETS. DO NOT USE IF PREGNANT OR BREASTFEEDING.** Possession or use of this product may carry significant legal penalties in some jurisdictions and under federal law. It may not be transported outside of the state of Vermont. **The effects of edible cannabis may be delayed by two hours or more.** Cannabis may be habit forming and can impair concentration, coordination, and judgment. Persons 25 years and younger may be more likely to experience harm to the developing brain. It is against the law to drive or operate machinery when under the influence of this product. National Poison Control Center 1-800-222-1222.*

- (b) All product packaging must use the following warning symbols:



#### **Minimum Size**

**Packing and Labeling:** 0.5" x 0.5"  
**Edible Marijuana Product:** At least 25 percent of the servings' height and width, but not less than 0.25" x 0.25"

#### **Required Colors**

When used on the marketing layer, the universal symbol and optional "not safe for kids" icons must be reproduced in black and red.

**Black** (CMYK): 0, 0, 0, 100

**Red** (CMYK): 0, 95, 100, 0

**Red** (Pantone): PMS 485

Coloring is not required for on-product markings.

#### **Background**

The icons must be placed on a white or light-colored background. The interior of the icon must remain white.

#### **Restrictions**

- Do not recreate or modify the icons in any manner.
- Do not stretch or distort the icons.
- Do not use the icons smaller than the minimum size.
- Do not change the icon colors (Note: Coloring is not required for on-product markings.)
- Do not use the icons on a dark background.

- (c) All product packaging must include the following statement, including capitalization, in at least 10-point Times New Roman, Helvetica or Ariel and bolded font:

## **KEEP OUT OF REACH OF CHILDREN**

- (d) All product packaging for products that contain multiple servings must contain the following statement, including capitalization, in at least 10-point Times New Roman, Helvetica or Ariel and bolded font:

## **INCLUDES MULTIPLE SERVINGS**

### 2.2.11 Advertising

In addition to those contained in 7 V.S.A. § 864 and section 2.2.10(a) of this rule, the following prohibitions and requirements apply to advertising Cannabis or Cannabis Products:

- (a) Cannabis Establishments are prohibited from using objects, such as toys, inflatables, movie characters, cartoon characters, child-friendly depictions of food or other consumables, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21 years of age. This includes, but is not limited to, brand logo development and any advertising used for the purposes of marketing the licensee's dispensary and/or products.

- (b) Cannabis Establishments are prohibited from advertising or promoting in a manner that is false, untrue, or misleading.
- (c) Cannabis Establishments are prohibited from including in its advertising any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.
- (d) Websites for Cannabis Establishments must have age-gating.
- (e) Social media accounts for Cannabis Establishments may only promote products using links to their age-gated websites. Any images or other text regarding products is otherwise prohibited.

#### 2.2.12 Audience Composition Presumptions for Advertising

When considering whether a proposed advertisement meets the requirements of 7 V.S.A. § 864 and of this rule, the Board will make the following presumptions:

- (a) That more than 15% of the audience will be under 21 years of age, unless the prospective advertiser can show by a preponderance of the evidence that less than 15% of the audience is reasonably expected to be under 21 years of age. Evidence must include reliable, verifiable, and current audience composition data.
- (b) That the audience for any outdoor advertisement is the general public, and those under 21 years of age will have the same prevalence in that audience as they do in the general public, unless a prospective advertiser can demonstrate that an outdoor space will not be accessed by the general public and that those who can access it meet the audience metric of 7 V.S.A. § 864(c).
- (c) Except for signage as defined in 7 V.S.A. § 861(2)(D), window displays, or items, text, or objects inside a retail Cannabis Establishment that are visible to a person standing outside the establishment, will be considered an outdoor advertisement for the purposes of this rule.

#### 2.2.13 Visitors

- (a) Visitors are only permitted to the extent provided for in this rule.
- (b) If this rule makes no provision for visitors at a type of Cannabis Establishment then visitors are not permitted at that type of Cannabis Establishment, provided that the following individuals may be admitted to Cannabis Establishments:
  - i. Contractors, or professional advisors such as lawyers or accountants, if they are accompanied by a Cannabis Establishment principal or employee who has an identification card issued pursuant to Rule 1.16;
  - ii. Persons entering for an educational purpose if they are accompanied by a Cannabis Establishment principal or employee who has an identification card issued pursuant to Rule 1.16;
  - iii. Board designees or other state and municipal officials; and
  - iv. Those making lawful deliveries pursuant to section 2.2.7 of this rule.
- (c) A Cannabis Establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where Cannabis or Cannabis Product is located. The Cannabis Establishment is responsible for ensuring compliance with age limitations.

- (d) For home occupancy businesses, the provisions of this section apply only to the areas where Cannabis or Cannabis Product is kept, which must be secured in accordance with the provisions of this rule.
- (e) This section shall not be interpreted to limit the actions of emergency responders in the course of their duties.
- (f) This section 2.2.13 does not apply to retail Cannabis Establishments.

#### 2.2.14 Inspections

Cannabis Establishments shall submit to inspections of their physical site of operations and their records upon request of the Board or a Board designee.

#### 2.2.15 Inversion and Diversion from the Legal Market is Prohibited

No Cannabis Establishment may purchase or obtain Cannabis or Cannabis Products from an entity that is not licensed pursuant to Board Rule 1. Except for retail Cannabis Establishments, no Cannabis Establishment may sell or transfer Cannabis or Cannabis Products to any person other than a licensed Cannabis Establishment.

#### 2.2.16 Compliance in Other Jurisdictions

To the extent the controller or principal of a licensee also controls or is a principal of a licensed Cannabis Establishment, or the equivalent of a Cannabis Establishment, in a different jurisdiction, that Cannabis Establishment must remain in compliance with the laws and regulations of its jurisdiction.

#### 2.2.17 Reporting Theft or Loss

- (a) Cannabis Establishments must report theft of Cannabis or Cannabis Product to the Board immediately after discovery of the theft and enter the associated loss into the Inventory Tracking System.
- (b) Cannabis Establishments must enter any loss of Cannabis or Cannabis Product into the Inventory Tracking System.

#### 2.2.18 Co-Location

Cannabis Establishments may operate at the same location, subject to the following conditions:

- (a) The co-located operation is not in violation of any local ordinances or regulations.
- (b) Each Cannabis Establishment operating at the same location shall do all the following:
  - i. Have distinct and identifiable spaces, areas, or plots, with each licensee operating in its own separate space, area, or plot.
  - ii. Post notice of its license in its distinct area, space, or plot.
  - iii. Maintain all the business operations, compliance requirements, and record-keeping that a Cannabis Establishment would maintain if it were operating in its own location.

- iv. Otherwise comply with the provisions in the relevant statutes and these rules.
- (c) Co-located Cultivation Cannabis Establishments must limit their total canopy to the relevant Tier 6 plant canopy limit, provided that the Board retains discretion to waive this limit.
- (d) Co-located cultivation Cannabis Establishments must utilize the security measures that would be required if the combined plant canopy of all the co-located cultivators were treated as belonging to a single Cannabis Establishment.
- (e) Co-located Cannabis Establishments that include non-cultivation licensees must utilize the security measures that are the most stringent required of any one of the co-located establishments, as provided by this Rule.
- (f) No person may operate in a manner that has the effect of subverting 7 V.S.A. § 901(d)(3)(A) or any other licensure requirements contained in 7 V.S.A. chapter 33 or Board Rule 1, and no person shall exercise control over a Cannabis Establishment without the disclosures required in Board Rule 1.4. At its discretion the Board may require additional information from Cannabis Establishments to ensure compliance with this section.
- (g) Multiple retail Cannabis Establishments may not operate at the same location.

This section does not apply to dispensaries, which are governed by section 2.10.3 of this rule and by Rule 3.

#### 2.2.19 Adulterated Cannabis and Cannabis Product

- (a) Licensees must abide by all orders of the Board issued pursuant to 7 V.S.A. § 904(e)(1) and Board Rule 4.
- (b) If Cannabis or Cannabis Product is adulterated due to the willful or intentional misuse of a pesticide, the Cannabis must be destroyed in accordance with section 2.2.8 of this rule and reported to the Board by:
  - i. The cultivator, or
  - ii. A testing laboratory, which must destroy whatever adulterated Cannabis or Cannabis Product is in its possession.
- (c) If Cannabis or Cannabis Product is adulterated due to no fault of the license holder they may attempt to remediate if doing so can be done safely, provided that Cannabis or Cannabis Product that tests at impermissible levels of human pathogens may not be remediated. Adulteration without fault may occur due to atmospheric drift of an adulterant, or a similar natural phenomenon.
  - i. Remediation may include refinement into a manufactured product using a licensed manufacturer.
  - ii. Any remediated product needs to be retested for the adulterant subsequent to remediation.
  - iii. If an adulteration poses a public health issue subsequent to remediation the Cannabis or Cannabis Product will need to be destroyed in accordance with section 2.2.8 of this rule.

#### 2.2.20 Cannabis Establishment Identification Card Requirement

- (a) All persons working at a Cannabis Establishment must have an identification card issued by the Board pursuant to Rule 1.16.
- (b) Any person working at a Cannabis Establishment must have their identification card in their possession at all times while working at the Cannabis Establishment.

## **2.3 Regulations Applicable to Cultivators**

The requirements in this section apply to Cannabis Establishments with any cultivator license.

### **2.3.1 Pesticides**

Cultivators shall abide by the rules and guidelines regarding pesticides that are promulgated by the Vermont Agency of Agriculture, Food and Markets.

Cannabis Establishments with a cultivator license shall maintain a record of pesticide usage in such a way that it can be readily accessed from the physical site of operations upon the request of the Board or Board designee.

### **2.3.2 Visitors to Cultivation Sites**

- (a) Visitors must be escorted at all times by a Cannabis Establishment employee who has an identification card issued pursuant to Rule 1.16.
- (b) Visitors may not consume cannabis in any form on site.
- (c) Visitors may not purchase cannabis on site, provided that this shall not be interpreted to prohibit sales at retail Cannabis Establishments that are co-located with a cultivation Cannabis Establishment in accordance with all applicable regulations.
- (d) A Cannabis Establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. The Cannabis Establishment is responsible for ensuring compliance with age limitations.
- (e) Cannabis Establishments must issue identification badges to visitors, provided that this provision does not apply to any tier 1 cultivation licensees. The badge will:
  - i. have a design approved by the Board;
  - ii. be visibly displayed while on the physical site of operations; and
  - iii. be returned upon exit.
- (f) Visitors must be logged with time of entry and exit, and the log will be made available to the Board or a Board designee upon request. Logs must be retained for 1 calendar year.
- (g) A safety protocol must be established by license holder before allowing visitors.
- (h) Subsections (e) through (g) of this section do not apply to the following individuals:
  - i. Contractors, or professional advisors such as lawyers or accountants, if they are accompanied by a Cannabis Establishment principal or employee who has an identification card issued pursuant to Rule 1.16;
  - ii. Board designees or other state and municipal officials; and
  - iii. Those making lawful deliveries pursuant to section 2.2.7 of this rule.
- (i) For home occupancy businesses, the provisions of this section 2.3.2 apply only to the areas where Cannabis is kept, which must be secured in accordance with the provisions of this rule.

- (j) This section shall not be interpreted to limit the actions of emergency responders in the course of their duties.

### 2.3.3 Testing

Cultivators must have their products tested in accordance with rules and guidance established in section 2.9 of this rule. Testing for potency of a crop must take place prior to packaging for transfer to another licensee. Other testing will occur in accordance with the relevant regulations and policies. All test results shall be saved for no less than 1 year.

### 2.3.4 Cultivator Processing

- (a) The word “process” in 7 V.S.A. § 904(a) means:
  - i. packaging or wrapping Cannabis flower in any manner that Cannabis flower may be transported or consumed.
  - ii. Trimming Cannabis flower, or other activities necessary for preparing Cannabis flower for packaging or transport.
- (b) The word “process” in 7 V.S.A. § 904(a) does not mean transforming Cannabis flower into another substance through manufacturing.

### 2.3.5 Cultivator Packaging

- (a) Except as provided in subsection (b) of this section 2.3.5, when a cultivator transfers Cannabis to another licensee packaging must meet the requirements of:
  - i. Section 2.2.9(a) of this rule; and
  - ii. 7 V.S.A. § 904(d)(1).
- (b) When a cultivator transfers Cannabis to a retail licensee and the Cannabis is intended for consumer purchase as packaged, packaging must:
  - i. Meet the requirements of section 2.2.9 of this rule;
  - ii. Meet the requirements of 7 V.S.A. § 904(d)(1);
  - iii. Meet the requirements of 7 V.S.A. § 907(c); and
  - iv. Include testing results, which can be conveyed using a website address, QR code, or similar means of providing access to information accessible on a website.

### 2.3.6 Cultivator Inspections

- (a) The Board or Board designee will conduct inspections, which may or may not be noticed in advance, to ensure compliance with these rules and Title 7, Chapter 33 of the Vermont Statutes.
- (b) Inspections may include:
  - i. collecting samples;
  - ii. taking photographs or video;
  - iii. talking to employees, principals, or owners;
  - iv. inspecting records;
  - v. inspecting equipment or vehicles used for growing, processing, or transporting Cannabis; and

- vi. taking any other reasonable measure to evaluate compliance.
- (c) Information obtained from inspections at non-cultivator Cannabis Establishments may inform inspections at cultivator licensees.
- (d) Cannabis samples obtained during inspections may be used to assess consumer safety issues and may also be used by the Board for genetic testing and research into taxonomic determinations of cannabis cultivars or varieties grown.

#### 2.3.7 Sanitation

To the extent not already required by section 2.2.4 of this rule, cultivators will ensure:

- (a) that any illness or bodily injury to an individual at a cultivation site does not become a source of microbial contamination to a Cannabis crop;
- (b) that litter and waste are properly removed so they do not become a source of microbial contamination; and
- (c) sufficient sanitation to minimize potential for attracting, breeding, or harboring pests.

#### 2.3.8 Cultivation and Operations Information

Cultivating licensees shall submit cultivation and operations information to the Board within 60 days of gaining a license. The information shall include the following:

- (a) cultivation schedule;
- (b) waste management plan; and
- (c) integrated pest management plan.

#### 2.3.9 Vendor and Employee Samples

- (a) Vendor samples must meet the following requirements:
  - i. Cultivators may provide a sample of flower to a wholesaler, manufacturer, or retailer, provided that such samples may not be consumed on any licensed premises. Samples must be tested in accordance with rules and guidance established in section 2.9 of this rule.
  - ii. Samples will be limited to the following aggregate amounts in a calendar month: four grams per strain of flower per vendor, and no more than seven strains of flower per vendor.
  - iii. Vendor samples must be labeled: VENDOR SAMPLE NOT FOR RESALE.
  - iv. Samples must be designated and identified in the Inventory Tracking System.
- (b) Employee Samples must meet the following requirements:
  - i. Cultivators may provide samples to employees to determine whether to make product available to sell, provided that such samples may not be consumed on any licensed premises.
  - ii. Samples will be limited to the following aggregate amounts in a calendar month: four grams per strain of flower per employee, and no more than seven strains of flower per employee.
  - iii. Employee samples must be labeled: QUALITY CONTROL SAMPLE NOT FOR RESALE.

- iv. Samples must be designated and identified in the Inventory Tracking System.

## **2.4 Regulations Applicable to Outdoor and Mixed Cultivators**

The requirements in this section apply to Cannabis Establishments with an outdoor or mixed cultivator license.

### **2.4.1 Outdoor Security Management Practices**

The Board deems the following to be Outdoor Security Management Practices:

- (a) fencing;
- (b) video surveillance system with unobscured views of area;
- (c) alarm system;
- (d) photographic surveillance;
- (e) motion activated flood-light, which may face away from the plant canopy;
- (f) security services, which may include the physical presence of a security guard; and
- (g) controlled point of access.

### **2.4.2 Standards For Outdoor Security Management Practices**

- (a) Fencing must be sufficient to prevent unauthorized entry to any cultivation areas.
- (b) Electronic security measures and security services, if applicable pursuant to section 2.4.3, must be operating for no less than the three-week period preceding a harvest, as well as while drying, curing, or storing a harvested crop.
- (c) Video and photographic surveillance equipment must:
  - i. retain footage for a minimum of 30 days;
  - ii. include date and time stamps on images without significantly obscuring the images;
  - iii. be capable of producing usable images in the lighting conditions in which it is placed;
  - iv. be placed in a way that allows for the clear and certain identification of any persons or activities at or in the immediate vicinity of any Cannabis or Cannabis Product, provided that video recordings may be motion-activated; and
  - v. be exportable and transferrable to standard computing equipment and have a resolution of 720p or greater or the equivalent of such a resolution.

### **2.4.3 Minimum Outdoor Security Management Practices**

Outdoor cultivators and the outdoor portion of a mixed cultivator's crop must implement Outdoor Security Management Practices to the extent required in this section unless they apply to the Board for a variance from the fencing requirement, which the Board will consider on a case-by-case basis.

- (a) Tier 1 outdoor cultivators and mixed cultivators must utilize at least 1 of the Outdoor Security Management Practices in section 2.4.1.
- (b) Tier 2 outdoor cultivators must utilize at least 2 of the Outdoor Security Management Practices in section 2.4.1 and one of them must be fencing.
- (c) Tier 3 outdoor cultivators must utilize at least 3 of the Outdoor Security Management Practices in section 2.4.1 and one of them must be fencing.
- (d) Tier 4 outdoor cultivators must utilize at least 4 of the Outdoor Security Management Practices in section 2.4.1 and one of them must be fencing.
- (e) Tier 5 outdoor cultivators must utilize at least 5 of the Outdoor Security Management Practices in section 2.4.1 and one of them must be fencing.
- (f) Tier 6 outdoor cultivators must utilize all of the Outdoor Security Management Practices in section 2.4.1.

#### 2.4.4 Visibility From a Public Road

If a crop would be visible from a public road, as defined in 24 V.S.A. § 4303(33), a physical barrier of concealment must be created such that the crop is not visible from the public road. Such barriers may include, but are not limited to, fencing, hedges, or building structures.

#### 2.4.5 Additional Requirements

- (a) At the Board's discretion, a physical site of operations may be inspected by a Board designee to determine security risks and visibility from a public road either before or after the Board has granted a license. The Board retains the right to require additional Outdoor Security Management Practices or barriers subsequent to such an inspection.
- (b) If a Cannabis Establishment experiences more than one incident of theft in a one-year time period, additional Outdoor Security Management Practices may be required at the Board's discretion.

#### 2.4.6 Security for Drying, Curing, and Storage

Security for Cannabis drying, curing, and storage must meet the requirements of section 2.5.1 of this rule.

#### 2.4.7 Allowance for Winter Indoor Storage

Mother plants, Cannabis plant-seeds, and clones in propagation or vegetation phase of development may be kept indoors during winter months when outdoor cultivation is not possible, provided that outdoor cultivation licensees may not cultivate Cannabis indoors.

### **2.5 Regulations Applicable to Indoor and Mixed Cultivators**

The requirements in this section apply to Cannabis Establishments with an indoor or mixed cultivator license.

#### 2.5.1 Security

Indoor cultivators and the indoor portion of a mixed cultivator's crop must utilize the following security measures:

- (a) All perimeter doors and windows must be locked, and only individuals with a Cannabis Establishment identification card, granted in accordance with Rule 1.16, may have keys or a key equivalent.
- (b) All perimeter doors and windows must have operational security alarms, provided that Tier 1 and mixed cultivators are not required to have security alarms unless the Board requires it, which the Board retains the discretion to do on a case-by-case basis.
- (c) Video surveillance with continuous monitoring of any space that contains Cannabis, whether growing or harvested, or Cannabis Products. Video surveillance must meet the standards of section 2.4.2(c) of this rule.

#### 2.5.2 Security for Drying, Curing, and Storage

Security for Cannabis drying, curing, and storage must meet the requirements of section 2.5.1 of this rule.

#### 2.5.3 Energy Standards for Buildings

- (a) Vermont Commercial Building Energy Standards (CBES) will apply to indoor cultivation facilities in the following areas to the same extent they would for any other commercial building:
  - i. The building envelope must meet CBES for insulation.
  - ii. Non-cultivation lighting must meet CBES for new buildings and retrofits.
  - iii. Ventilation must meet CBES.
  - iv. HVAC systems must meet CBES for efficiency, except that HVAC equipment used for cultivation does not need economizers and heat recapture.
- (b) Greenhouses must meet CBES for HVAC equipment efficiency, except that HVAC equipment used for cultivation does not need economizers and heat recapture.
- (c) Fans and clean water pumps at indoor cultivation facilities should, at the date of equipment purchase, comply with the most recent energy efficiency standards promulgated by the federal Department of Energy.

#### 2.5.4 Energy Standards for Lighting

Cannabis Establishments shall have one year from the date of licensure to come into compliance with the following requirements:

- (a) Lighting for indoor cultivation must have a minimum of 1.9 Photosynthetic Photon Efficacy (PPE).
- (b) Lighting for greenhouses:
  - i. The envelop must have a minimum u-factor of 0.7.
  - ii. If a greenhouse uses lighting fixtures to supplement the sun, the cultivation lighting must have a minimum of 1.7 PPE, except that if a greenhouse has a total

connected lighting load of less than 40 kilowatts it is exempt from lighting requirements.

#### 2.5.5 Energy Standards for Dehumidification

Cannabis Establishments shall have one year from the date of licensure to come into compliance with the following requirements:

One of the following dehumidification systems must be used for indoor cultivation:

- (a) Standalone dehumidifiers must meet the following minimum integrated energy factors:
  - i. Minimum integrated energy factor of 1.77 L/kWh for product case volumes of 8.0 cubic feet or less, or
  - ii. Minimum integrated energy factor of 2.41 L/kWh for product case volumes greater than 8.0 cubic feet.
- (b) Integrated HVAC system with on-site heat recovery designed to fulfill to least 75 percent of the annual energy for dehumidification reheat.
- (c) Chilled water system with on-site heat recovery designed to fulfill at least 75 percent of the annual energy for dehumidification reheat.
- (d) Solid or liquid desiccant dehumidification system for system designs that require dewpoint of 50° Fahrenheit or less.

#### 2.5.6 Energy Usage Reporting and Reduction Efforts

- (a) License holders must report energy efficiency benchmarks annually to the Board as a condition of license renewal.
- (b) License holders must annually update and submit to the Board written operating procedures regarding equipment maintenance, calibration and proper operation, for all major energy equipment, including, but not limited to, horticultural lighting, HVAC systems, and dehumidification systems.
- (c) License holders must annually assess and report to the Board on opportunities to reduce energy, which should include:
  - i. identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;
  - ii. consideration of opportunities for renewable energy generation, including, where applicable, identification of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
  - iii. strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and
  - iv. engagement with energy efficiency programs offered by Efficiency Vermont, Burlington Electric Department, or Vermont Gas Systems.

## 2.6 Regulations Applicable to Manufacturers

The requirements in this section apply to Cannabis Establishments with a manufacturing license.

Manufacturers shall abide by any requirements and limitations contained in 7 V.S.A. § 881(a)(3), 7 V.S.A. § 868, and 18 V.S.A. § 4230h, in addition to the requirements of this section.

#### 2.6.1 Manufacturer Security

Manufacturers must meet all requirements of section 2.5.1 of this rule.

#### 2.6.2 Testing

Manufacturers must have their products tested in accordance with rules and guidance established in section 2.9 of this rule. Test results shall be saved for no less than one year.

#### 2.6.3 Manufacturer Packaging

(a) Except as provided in subsection (b) of this section 2.6.3, when a manufacturer transfers Cannabis to another licensee packaging must meet the requirements of section 2.2.9(a) of this rule.

(b) When a manufacturer transfers Cannabis Product to a retail licensee and the Cannabis Product is intended for consumer purchase as packaged, packaging must meet the following requirements:

- i. All requirements of section 2.2.9 of this rule.
- ii. All requirements contained in 7 V.S.A. § 881(a)(3)(B) and (C).
- iii. For consumable Cannabis Products packaging must include:
  1. the number of servings in the package and serving size, provided that servings must be easy for a consumer to measure, either by clear and visible marking on the Cannabis Product or physical separation of servings; and
  2. a warning that the impairment effects of the Cannabis Product may be delayed by two hours or more.
- iv. For non-consumable Cannabis Products packaging must include:
  1. the ingredients used in production, including but not limited to scents or other additives, and common irritants warnings; and
  2. notice that the product is not for consumption.

#### 2.6.4 Additives

(a) For Cannabis Products intended for oral ingestion, such as food, drinks, oil-based tinctures, and similar products, manufacturers may use any additive that the Food and Drug Administration has deemed Generally Recognized As Safe.

(b) For Cannabis Products intended for inhalation, the Board will maintain an approved ingredient list that will be readily available to the public.

(c) Manufacturers shall abide by any prohibition contained in 7 V.S.A. § 868(a)(4).

#### 2.6.5 Records

Manufacturers shall maintain the following records in such a way that they can be readily accessed from the physical site of operations upon the request of the Board or Board designee:

- (a) Records of purchases from any manufacturer or supplier of an ingredient, additive, component, or other substance, compound, or material obtained by the manufacturer.
- (b) Records of the name and business address of the manufacturer of any cartridge, battery, atomizer coil, hardware, device, or other component in vaporized products.
- (c) A copy of a Certificate of Analysis for each thickening agent, thinning agent, or terpene used in production. These Certificates of Analysis shall be provided to a retailer or wholesaler upon request.

#### 2.6.6 Vendor and Employee Samples

- (a) Vendor samples must meet the following requirements:
  - i. Manufacturers may provide a sample of Cannabis Product to a wholesaler or retailer, provided that such samples may not be consumed on any licensed premises. Samples must be tested in accordance with rules and guidance established in section 2.9 of this rule.
  - ii. Samples will be limited to the following aggregate amounts in a calendar month: Five grams of concentrate or extract, or 100 servings of edibles per vendor, so long as the tetrahydrocannabinol content of each individual edible sample does not exceed five milligrams per serving and is within any applicable statutory or regulatory potency levels.
  - iii. Vendor samples must be labeled: VENDOR SAMPLE NOT FOR RESALE.
  - iv. Samples must be designated and identified in the Inventory Tracking System.
- (b) Employee Samples must meet the following requirements:
  - i. Manufacturers may provide a sample of Cannabis Product to an employee to determine whether to make a product available to sell, provided that such samples may not be consumed on any licensed premises.
  - ii. Samples will be limited to the following aggregate amounts in a calendar month: five grams of concentrate or extract, or 100 servings of edibles per employee, provided that the tetrahydrocannabinol content of each individual edible sample does not exceed five milligrams per serving and is within any applicable statutory or regulatory potency levels.
  - iii. Employee samples must be labeled: QUALITY CONTROL SAMPLE NOT FOR RESALE.
  - iv. Samples must be designated and identified in the Inventory Tracking System.

## 2.7 Regulations Applicable to Wholesalers

The requirements in this section apply to Cannabis Establishments with a wholesaler license.

### 2.7.1 Wholesaler Security

- (a) Wholesalers must meet all requirements of section 2.5.1 of this rule.

- (b) Manufactured Cannabis Product, but not Cannabis flower, must be kept in a reasonably secure locked space.

#### 2.7.2 Wholesaler Processing

- (a) The word “process” in 7 V.S.A. § 905(b) means:
  - i. Packaging or wrapping Cannabis flower in any manner that Cannabis flower may be transported or consumed.
  - ii. Trimming Cannabis flower, or other activities necessary for preparing Cannabis flower for packaging or transport.
  - iii. Packaging Cannabis Products in any manner that Cannabis Products may be packaged.
- (b) The word “process” in 7 V.S.A. § 905(b) does not mean transforming Cannabis flower into another substance through manufacturing.

#### 2.7.3 Wholesaler Packaging

- (a) Except as provided in subsections (b) and (c) of this section 2.7.3, when a wholesaler transfers Cannabis or Cannabis Product to another licensee packaging must meet the requirements of section 2.2.9(a) of this rule.
- (b) When a wholesaler transfers Cannabis to a retail licensee and the Cannabis is intended for consumer purchase as packaged, packaging must meet the requirements of section 2.3.5(b) of this rule.
- (c) When a wholesaler transfers Cannabis Products to a retail licensee, and the Cannabis Products are intended for consumer purchase as packaged, packaging must meet the requirements of section 2.6.3(b) of this rule.

### **2.8 Regulations Applicable to Retailers**

The requirements in this section apply to Cannabis Establishments with a retailer license.

#### 2.8.1 Buffer Zones

Retail Cannabis Establishments shall not be located at a place where the sale of a regulated drug would constitute a violation of 18 V.S.A. § 4237(d).

#### 2.8.2 Retail Security

Retailers must meet all requirements of section 2.5.1 of this rule, along with the following additional requirements:

- (a) Alarm systems installed by retailers must be installed by an alarm installation company with expertise in industry standard commercial-grade alarm systems.
- (b) Video surveillance must include point-of-sale areas, all entrances, exits, and any area where Cannabis or Cannabis Product is stored or handled.
- (c) Strict access controls to areas where Cannabis and Cannabis Product is stored or handled.

- (d) Video footage must be kept for at least 30 days, and video recording devices must be continuously recording.
- (e) Employees shall wear identification badges that clearly identify them as employees while on duty.
- (f) Upon request, a retailer shall make available to the Board or Board designee all information related to security alarm systems, monitoring, alarm activity, maps of camera locations and camera coverage, surveillance equipment maintenance log, authorized user list, operation instructions, and any other relevant information.
- (g) The number of customers in the retail area at any given time may not be more than can be easily monitored by the employees present in the retail area.
- (h) The requirements of 7 V.S.A. § 881(a)(5), to the extent not already covered by this rule.

### 2.8.3 Age Verification

- (a) Immediately upon a visitor entering the retail premises an individual who has been issued an identification card pursuant to Rule 1.16 shall inspect the visitor's proof of identification and determine the visitor's age. This age check shall take place in the immediate vicinity of the entrance to the retail premises.
- (b) "Acceptable form of identification" shall mean a photo identification issued by a government, and it must be current and valid.
- (c) No individual shall be admitted unless the retailer has verified that the acceptable form of identification matches the visitor and that the visitor is 21 years of age or older.
- (d) Prior to completing a transaction for the purchase of Cannabis or a Cannabis Product, an individual who has been issued an identification card pursuant to Rule 1.16 shall inspect the visitor's proof of identification and determine the visitor's age.
- (e) A retailer may not acquire or record visitor personal information other than information typically required by a retail transaction, which can include information to determine the visitor's age.
- (f) A retailer may not record or retain any additional personal information from a visitor without the visitor's permission.
- (g) Retailers shall refuse to sell to any visitor who is unable to produce valid proof of their age using an acceptable form of identification.

### 2.8.4 Retailer Packaging

- (a) Packaging for all Cannabis and Cannabis Products sold in retail establishments must meet the following requirements:
  - i. All requirements contained in section 2.2.9 of this rule.
  - ii. Packaging must have information regarding the test results of the Cannabis or Cannabis Product, provided that packaging may convey such information using a website address, QR code, or similar means of providing access to information available on a website.
- (b) For Cannabis, packaging must meet the requirements contained in section 2.3.5(b) and 907(c) of this rule in addition to subsection (a) of this section 2.8.4.
- (c) For Cannabis Products, packaging must meet the requirements contained in section 2.6.3(b) of this rule in addition to subsection (a) of this section 2.8.4.

### 2.8.5 Collection and Reuse of Consumer Packaging Waste

- (a) Retail Cannabis Establishments may collect, reuse, and recycle consumer packaging waste. Only retail Cannabis Establishments may collect consumer packaging waste for reuse and recycling. Such Cannabis Establishments may collect consumer packaging waste from consumers or from other licensees.
- (b) Any receptacles used for collection of Consumer Packaging Waste shall be located inside the Cannabis Establishment such that they are subject to the same security measures as the rest of the establishment. They shall be reasonably supervised by a licensee to ensure any consumer packaging waste is only removed by a licensee.
- (c) Any receptacles used for collection of consumer packaging waste shall be labeled. The label must at least identify the receptacle as “consumer packaging waste.” A licensee may choose to include additional information on the receptacle label.
- (d) Licensees collecting consumer packaging waste pursuant to this section 2.8.5 must ensure at a minimum that any remaining Cannabis or Cannabis Product in consumer packaging waste is removed and destroyed to the extent practicable. The waste disposal requirements of section 2.2.8 of this rule shall apply.
- (e) Once any remaining Cannabis or Cannabis Product has been removed and destroyed pursuant to these rules, a licensee may:
  - i. Reuse consumer packaging waste if the packaging has been sanitized and disinfected.
  - ii. Transfer consumer packaging waste to another licensee for reuse or may transfer consumer packaging waste to a person for recycling or reuse.
- (f) A Cannabis Establishment that is reusing consumer packaging waste must sanitize and disinfect the packaging.
- (g) Child-resistant containers may be reused as child-resistant containers to the extent they continue to meet the requirements of 7 V.S.A. § 861(16).

### 2.8.6 Standard Operating Procedures

Retailers must maintain standard operating procedures regarding the following subjects in such a way that they can be readily accessed from the physical site of operations upon the request of the Board or Board designee :

- (a) security measures;
- (b) employee security policies, including personal safety and crime prevention techniques;
- (c) description of establishment’s hours of operation and after-hours contact information for management;
- (d) plan for storage of inventory;
- (e) procedures to ensure accurate recordkeeping, including inventory protocols and compliance with the Inventory Tracking System;
- (f) quality control plans;
- (g) emergency procedures in case of a fire or other emergency;
- (h) how confidential information will be maintained; and
- (i) policy for immediate dismissal of an employee who has diverted Cannabis or Cannabis Product or engaged in unsafe practices.

### 2.8.7 Retailer Samples

Retailers may accept vendor samples as permitted by sections 2.3.9 and 2.6.6 of this rule but are prohibited from offering such samples for sale. Acceptance of such samples must be logged in the Inventory Tracking System.

### 2.8.8 Consumer Samples

Retailers may provide samples of Cannabis flower in enclosed containers for viewing or smelling by visitors. Such samples may not be touched by visitors or sold or transferred to visitors and their use and disposal must be tracked in the Inventory Tracking System.

### 2.8.9 Safety Information Flyer

Retailers shall display a safety information flyer created by the Board at the point of purchase, in accordance with 7 V.S.A. § 907(d). The Board shall make the flyer readily available to the public and to retail establishments for their use. The Board may update the flyer at any time and will provide notice to licensed retail establishments when it makes such an update.

## 2.9 Regulations Applicable to Testing Laboratories, Cultivators, and Manufacturers

The requirements in this section apply to Cannabis Establishments with a testing laboratory license, as well as to cultivators and manufacturers who must have their product tested in accordance with the standards in this section.

### 2.9.1 Testing Requirements

The following chart describes the testing requirements that each laboratory must be prepared to administer, and the sampling standard operating procedures that Cannabis Establishments must follow. The top row describes the test, the left column describes the substance that will be tested, and the boxes in the chart describe the relevant sampling standards. There are corresponding notes below the chart.

|                       | <b>Potency</b> | <b>Moisture or Water Activity</b> | <b>Microbiological (human pathogens)</b> | <b>Heavy Metals</b> | <b>Pesticides</b>  | <b>Residual solvents</b> |
|-----------------------|----------------|-----------------------------------|--|---------------------|--------------------|--------------------------|
| <b>Harvest lot</b>    |                |                                   |  |                     |                    |                          |
| THC compliance        | Each lot       | Each lot                          | N/A                                      | Note 5              | Each Lot<br>Note 6 | N/A                      |
| <b>Plant material</b> |                |                                   |  |                     |                    |                          |
| Trim flower           | Note 1         | Each process lot                  | Each process lot                         | Note 1              | Note 1             | N/A                      |

| <b>Concentrates</b>  |                  |     |                  |                  |                  |                  |
|--|------------------|-----|------------------|------------------|------------------|------------------|
| Liquids  | Each process lot | N/A | Each process lot | Each process lot | Each process lot | Note 3           |
| Solids   | Each process lot | N/A | Each process lot | Each process lot | Each process lot | Note 3           |
| <b>Products and Infused products</b>                             |                  |     |                  |                  |                  |                  |
| Liquids, including infused products (tinctures, and water based) | Note 4           | N/A | Note 2           | Note 1 or Note 2 | Note 2           | Note 2 or Note 3 |
| Solids, including infused edibles, tablets                       | Note 4           | N/A | Note 2           | Note 1 or Note 2 | Note 2           | Note 2 or Note 3 |

- Note 1 Harvest lot testing is sufficient to show compliance.
- Note 2: Trim flower or concentrate testing is sufficient to show compliance.
- Note 3: Residual solvents are tested whenever solvent based extraction techniques are used.
- Note 4: A certified laboratory’s certificate of analysis demonstrates that the product meets the acceptable potency level or the processor’s formulation demonstrates compliance with the acceptable potency level.
- Note 5: Testing for heavy metals is required whenever the crop land was used for orchard crops or any land use other than farming as defined in the Required Agricultural Practices Rule, unless a recent soils test demonstrates that the heavy metals are within the authorized action limits for soils.
- Note 6: No pesticide testing required if crop is certified by a third party to be pesticide free.
- Note 7: Testing for other contaminants is necessary when the Agency of Natural Resources has approved biosolids applications to crop land.

Sampling for the purposes of testing shall be representative sampling. The Board will define representative sampling in a policy that will be readily accessible to the public.

### 2.9.2 Potency Parameters

- (a) Cannabis must have no greater than a 20% variation from the label representation regarding total theoretical THC as defined by subsections (f) and (g) in this section 2.9.2, and other cannabinoids.
- (b) Cannabis Product with a label representation of between 0 milligrams to 10 milligrams of total cannabinoid content must have no greater than a 25% variation from the label representation.

- (c) Cannabis Product with a label representation of between 10 milligrams to 100 milligrams of total cannabinoid content must have no greater than a 20% variation from the label representation.
- (d) Cannabis Product with a label representation of greater than 100 milligrams of total cannabinoid content must have no greater than a 10% variation from the label representation.

In assessing potency, laboratories will use the following formulation:

- (e) Tetrahydrocannabinolic acid (THCA) is the precursor of delta-9 tetrahydrocannabinol (THC).
- (f) The laboratory determination of potency will be determined by total theoretical THC.
- (g) Total theoretical THC content is the maximum amount of possible delta-9 THC in a cannabis crop if total conversion from THCA to THC were to occur. The calculated amount of total theoretical THC is determined as follows:
  - i. the sum of the concentration of delta-9 tetrahydrocannabinol added to the amount of tetrahydrocannabinolic acid after it is multiplied by 0.877 on a dry weight basis and reported to two significant figures.
  - ii. The following mathematical equation expresses this calculation:

$$\text{Total theoretical THC} = ([\text{delta 9 THC}] + ([\text{THCA}] * 0.877))$$

### 2.9.3 Moisture Parameters

Moisture parameters will be set as follows:

| Parameter        | Action limits for trim flower |
|------------------|-------------------------------|
| Moisture content | Less than or equal to 13 %    |
| Water activity   | 0.65                          |

### 2.9.4 Microbiological Parameters

The following human pathogens will be measured, and the limits set, in accordance with guidance issued by the Board. Such guidance will not be altered without at least 90 days of notice to licensees and the general public.

- (a) Shiga---toxin producing escherichia coli (STEC) – Bacteria
- (b) Salmonella species – Bacteria
- (c) Aspergillus flavus, Aspergillus fumigatus, Aspergillus niger, Aspergillus terreus - Fungus

### 2.9.5 Metal parameters

The following metals will be measured and the limits set in accordance with guidance issued by the Board. Such guidance will not be altered without at least 90 days of notice to licensees and the general public.

|          |
|----------|
| Arsenic  |
| Cadmium  |
| Lead     |
| Mercury  |
| Chromium |
| Copper   |
| Nickel   |
| Zinc     |

#### 2.9.6 Pesticides

As provided for by section 2.3.1 of this rule, cultivators will be required to abide the pesticide standards set by the Agency of Agriculture, Food, and Markets.

#### 2.9.7 Residual Solvent Parameters

Residual solvents will be measured and the limits set in accordance with guidance issued by the Board. Such guidance will not be altered without at least 90 days of notice to licensees and the general public.

#### 2.9.8 New Tests

When a laboratory seeks to gain certification for a new test, it must also submit to the Board the method validation summaries for any new test.

#### 2.9.9 Proficiency

A laboratory must maintain analytical proficiency for each test it administers.

#### 2.9.10 Records

In addition to all other relevant disclosure requirements, upon request of the Board or Board designee laboratories shall provide full access to all test records.

#### 2.9.11 Remediation of Adulterated Cannabis

Adulterated Cannabis or Cannabis Product may be remediated to the extent prescribed by section 2.2.19 of this rule.

#### 2.9.12 Other Parameters or Testing Methods

The Board retains discretion to change or add testing parameters, required pathogens, or other substances to the testing required under this rule.

## 2.10 Regulations Applicable to Integrated Licensees

The requirements in this section apply to applications for an integrated license.

### 2.10.1 All Cannabis Establishment Regulations Applicable

All regulations in sections 2.2 through 2.9 of this rule applies to integrated license holders. When manufacturing, integrated licensees will be permitted to utilize all lawful methods of extraction.

### 2.10.2 Dispensaries and Medical Cannabis

Except to the extent provisions in this section 2.10 impact dispensary operations, dispensaries and the medical cannabis registry are not regulated by this rule. They are regulated by Board Rule 3 and by Chapters 35 and 37 of Title 7 of the Vermont Statutes.

### 2.10.3 Co-located Operations

- (a) Integrated licensees may commingle Cannabis cultivation for adult-use sales with cultivation for dispensaries.
- (b) Prior to transfer to either a dispensary or a retail establishment, the licensee must create and maintain strict separation between Cannabis and Cannabis Product that will be sold through a retailer and Cannabis and Cannabis Product that will be sold through a dispensary to a registered patient. The separation must be documented in the Inventory Tracking System.
- (c) Integrated licensees may co-locate operations from different license types in the same location, but co-located operations must maintain all relevant security requirements for each license type and must maintain all Inventory Tracking System requirements.
- (d) Dispensaries may be co-located with retail Cannabis Establishments, provided that:
  - i. integrated licensees must have a system in place to ensure that staff give priority of service, including priority of entrance and sales, to registered dispensary patients before adult use consumers. This shall include curbside sale, if requested, for dispensary patients.
  - ii. Strict protocols must be in place to ensure that medical products for dispensary patients are not sold to adult-use consumers.

### 2.10.4 Duty to Maintain Continuity of Services to Medical Patients

- (a) Integrated licensees must ensure their dispensary operations maintain continuity of services to medical Cannabis patients.
- (b) If an integrated licensee has commingled their cultivation pursuant to 2.10.3(a), continuity of services will include designating sufficient biomass at an integrated licensee's cultivation facility to meet demand for medical Cannabis and Cannabis Products as indicated by dispensary sales data for the preceding 3 months. Such records and calculations will be provided to the Board or a Board designee upon request.

### 2.10.5 Use of Dispensary Cultivation for Integrated Licensees

Dispensary operations may transfer Cannabis and Cannabis Products to integrated licensees to the extent provided by Section 8 of Act 164 (2020), subject to the conditions in this section.

Beginning on the date retail establishments that are not part of an integrated license may begin sales:

- (a) The tiered plant canopy limits in Rule 1.3.1 that apply to all cultivator licenses apply to the cultivator portion of an integrated license, except for cultivation dedicated to medical cannabis sold through a dispensary.
- (b) Other than cultivation for a dispensary, the cultivator portion of an integrated license will be deemed to be in the largest cultivator tier that the Board has opened for an application acceptance period pursuant to Rules 1.3.1 and 1.10 and will be subject to the cultivation limit of that tier. The relevant maximum tier will be within the method of cultivation the integrated licensee has chosen to utilize in accordance with Rule 1.3.1.
- (c) If an integrated licensee has chosen not to commingle their dispensary and adult use Cannabis cultivation, the dispensary grow will be regulated by Board Rule 3 while the adult use grow will be subject to subsection (b) of this rule 2.10.5.
- (d) If an integrated licensee has chosen to commingle their dispensary and adult use Cannabis cultivation pursuant to section 2.10.3 of this rule, the cultivation will be subject to subsection (b) of this rule 2.10.5, with the following exception:
  - i. The total biomass of Cannabis required to meet the demand for medical Cannabis and Cannabis Products as indicated by dispensary sales data for the preceding 3 months will not be counted towards the total permissible square footage. If the total biomass set aside for medical Cannabis and Cannabis Products is ultimately not needed for that purpose, it may not be transferred to the adult-use market.
- (e) The Board at its discretion may require integrated licensees to provide the Board with any records that might demonstrate compliance or noncompliance with this section, including but not limited to sales and manufacturing data.

#### 2.10.6 Duty to Purchase From Small Cultivators

Integrated Licensees shall abide by the requirement in Section 10 of Act 62 (2021) regarding the purchase of Cannabis from small cultivators.

### **2.11 Licensee's Ongoing Duty to Disclose**

A Cannabis Establishment has an ongoing duty to fully and transparently update the information submitted with their licensing application or their last renewal form if they have renewed their license.

#### 2.11.1 Disclosure Insufficient For Changes In Control

If a Cannabis Establishment seeks to change location or alter the interest holders that control it, mere disclosure is insufficient to meet its obligations under this rule. It must seek a license renewal prior to any change in control, as required by Rule 1.17.

## **2.12 Waiver Provisions for Tier 1 Cultivators**

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

- (a) 2.2.1(l);
- (b) 2.2.4(a);
- (c) 2.2.4(b);
- (d) 2.2.4(c);
- (e) 2.2.5(b)(i);
- (f) 2.2.5(b)(v);
- (g) 2.2.7(j);
- (h) 2.3.2(g);
- (i) 2.5.3, provided that only home occupancy businesses are exempted from the provisions of this section;
- (j) 2.5.6(b); and
- (k) 2.5.6(c).

## **2.13 Universal Application of Licensure Requirements**

No person may operate in a manner that has the effect of subverting 7 V.S.A. § 901(d)(3)(A) or any other licensure requirements contained in 7 V.S.A. chapter 33 or Board Rule 1, and no person shall exercise control over a Cannabis Establishment without the disclosures required in Board Rule 1.4. At its discretion the Board may require additional information from Cannabis Establishments to ensure compliance with this section.

## **2.14 Municipalities**

Municipalities may regulate Cannabis Establishments to the extent permitted in 7 V.S.A. § 863.

To ensure coordination with the Board, municipalities must:

- (a) Notify the Board if they create a local control commission. The Board will not require local approval as a condition of an application pursuant to 7 V.S.A. § 863(c) unless the Board has received notice of the creation of a local control commission from the municipality.
- (b) Notify the Board if a local control commission grants or denies a local control license.
- (c) Notify the Board if a local control commission suspends or revokes a local control license.
- (d) Decide on grants or denials of local control licenses within 60 days of receiving an application. A delay of more than 60 days without a decision will constitute a presumptive grant of a local control license. This period may be tolled if the local control commission is communicating with the applicant about conditions the applicant must meet to be approved for a local control license. The Board will retain discretion to determine whether the time-period will be tolled and may request documentation regarding the process from either the municipality or the applicant, or both.

## **2.15 Confidentiality**

Information about Cannabis Establishments will be kept confidential by the Board to the extent required by 7 V.S.A. § 901(h).

## **2.16 Regulatory Waiver**

The Board, in accordance with the purposes and intent of Title 7 V.S.A. chapter 33 of the Vermont Statutes and this rule, may waive a regulatory requirement regarding the operations of a Cannabis Establishment to the extent such waiver does not conflict with any other state law, if in the Board's determination, such a waiver:

- (a) is necessary to achieve the purpose of Vermont law; and
- (b) does not create a danger to the public health, safety, or welfare.